APPENDIX - VOL. I

Supreme Court of the United States

OCTOBER TERM, 1974

No. 74-1589

GENERAL ELECTRIC COMPANY,
Petitioner,

v.

MARTHA V. GILBERT,
INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, AFL-CIO, CLC, *et al.*,
Respondents.

No. 74-1590

MARTHA V. GILBERT,
INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, AFL-CIO-CLC, *et al.*,
Petitioners,

v.

GENERAL ELECTRIC COMPANY,
Respondent.

ON WRITS OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

PETITIONS FOR CERTIORARI FILED JUNE 17, 1975
CERTIORARI GRANTED OCTOBER 6, 1975

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APPENDIX

IN THE
UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF VIRGINIA
RICHMOND VIRGINIA

MARTHA V. GILBERT SHARON E. GODFREY BARBARA HALL ALBERTA R. SMITH, JOHNNIE TAYLOR, DORIS B. WILEY, MARY R. WILLIAMS INTERN. UNION OF ELECTRICAL, RADIO & MACH. WORKERS, INTERN. UNION OF ELECTRICAL, RADIO & MACHINE WORKERS, LOC. 161, v. 1-GENERAL ELECTRIC COMPANY Amicus curiae: EEOC Amicus curiae: The Chamber of Commerce of the U.S. Basis: Discrimination 1964 Civ. Rts. Act. Unlawful Employment Practices	:	Civil Docket No. 142-72-R

DOCKET ENTRIES

1972

March 15	Complaint filed and summonses issued to deft.
March 28	Marshal's return on summons served on 3/21/72, filed. JP
April 3	Stipulation extending time for deft. to respond until 5/5/72 executed & entered. Copies mailed counsel.
May 5	Stipulation of parties extending time for deft. to answer to and including June 5, 1972, or to and including 10 days after the court rules on deft's Motion for Change of Venue, whichever date is the later, filed.
May 5	Certificate of Service filed by counsel.
May 5	Motion for change of venue on behalf of deft. General Electric Co., with affidavit of George Kegley, filed.
May 5	Affidavit in support of deft. General Electric Co's motion for change of venue, filed.
May 5	Memorandum in support of deft. General Electric Co's Motion for Change of Venue, filed.
May 10	Memorandum of the Court filed:
May 10	ORDER transferring action to Roanoke Division, Western District of Virginia; entered 5/10/72 & filed. Copies mailed as directed.
May 10	Case file with certified copy of docket entries mailed by certified mail to Clerk U.S. District Court, P.O. Building, Roanoke, Va..
May 31	Motion to vacate Order of May 10, 1972, filed by pltf.
June 1	ORDER denying pltfs' motion to vacate May 10, 1972. Order ent. 6/1/72 & filed. Copies mailed counsel & certified copies of order & motion mailed Clerk, Roanoke.

July 10	Certified copy of order remanding case to Eastern District for further action rec'd from Clerk USCA & filed.
July 12	ORDER vacating this Court's orders of May 10, 1972 & June 1, 1972 pending determination of deft's motion for change of venue; setting hearing 4:30 p.m. July 24 1972; memoranda due 7/20/72, 5:00 p.m.; ent 7/12/72 & filed. Copies mailed all counsel of record.
July 13	Stipulation extending time for deft to file answer to 8/20/72 executed & entered. Copies to counsel.
July 14	Case file rec'd from Clerk's Office, Roanoke, Va.
July 17	Order relieving Beecher E. Stallard as counsel for pltf., ent. 7-17-72. Copies mailed counsel.
July 20	Opposition of pltfs to deft's motion for change of venue filed by pltfs.
July 20	Memorandum of pltfs in opposition to deft's motion for change of venue, filed.
July 20	Affidavit in opposition to deft's motion for change of venue, filed by R.G. Delano.
July 20	Affidavit of John H. Shambo in opposition to deft's motion for change of venue, filed.
July 20	Supplemental Affidavit in support of deft. G.E.'s motion for change of venue, with Exhibits I, II and III attached.
July 20	Memorandum on behalf of General Electric Co. in reply to pltf's opposition to motion for change of venue, filed.
July 20	Pltf's motion to add parties pltfs. to complaint, filed.
July 24	IN OPEN COURT: Merhige, J. Appearances: Parties by counsel. Matter came on for hearing on motions. Motion of deft. for change

of venue argued. Motion of pltfs to add parties plaintiffs to complaint argued. Motions taken under advisement by the Court. Deft. to reply to pltfs' motion by 8-4-72.

Aug. 4 Plaintiff's additional authorities in support of opposition to motion to transfer rec'd, filed.

Aug. 4 Defendant's brief in opposition to plaintiff's motion to amend, with affidavits of Lewis R. Holly & Carmen J. Romeo, rec'd, filed.

Aug. 11 Affidavits of R.L. Howes; Marian Butts; Barbara J. De LaCruz; Louise Washington; Maggie I. Goodman; Patricia M. Johnson and Shirley C. Short in support of defts' brief, filed.

Aug. 11 Stipulation extending time for deft. to file answer until 9/20/72 ent. 8/11/72 & filed. Copies mailed counsel.

Sept. 14 Stipulation to extend time to answer complaint to and including 10-23-72, filed 9-14-72. SO ORDERED 9-14-72. Copies to counsel.

Sept. 25 Pltf's interrogatories to deft., filed.

Sept. 25 Memorandum of the court filed.

Sept. 25 Order denying deft's motion to change venue; granting CONDITIONALLY pltf's motion to add parties pltf., pending notice to the court of said parties pltf. of intentions not to intervene herein, ent. 9-25-72. Copies to counsel.

Oct. 24 Stipulation extending time to respond filed by pltf. and deft.

Oct. 25 Order extending time to and including the 15th day following date of final order of Court of Appeals disposing of such petition, if deft. files petition for writ of mandamus on or before 10-24-72, ent. 10-25-72. Copies to counsel.

Oct. 31 Form pre-trial order ent. & filed. Copies at doc. call.

Nov. 20 Answers by deft. to pltfs' interrogatories, filed.

Nov. 20 Objections by deft. to pltfs' interrogatories, filed.

Dec. 12 Supplemental answers to pltfs' interrogatories filed by deft.

Dec. 14 Motion by deft. General Electric to dismiss complaint with supporting Statements of Authoriities, filed.

Dec. 15 ORDER soliciting within 15 days of this date plaintiffs' response to deft's motion to dismiss; directing deft. to submit rebuttal within 5 days thereafter, entered 12-15-72, filed. Copies mailed as directed. (WEH)

Dec. 18 Memorandum in support of deft., General Electric's motion to dismiss complaint, filed.

Dec. 29 Pltf's third interrogatories to Defendant, filed.

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Jan. 2 Opposition by pltfs. to motion by GE to dismiss, filed.

Jan. 2 Memorandum in support of pltfs' opposition to motion by GE to dismiss, filed.

Jan. 2 Pltfs' statement of authorities in support of opposition to dismiss, filed, with Exhibits attached.

Jan. 9 Reply by deft. to pltfs' opposition to motion to dismiss complaint, filed.

Jan. 15 Withdrawal as party pltf. filed by Barbara J. De LaCruz.

Jan. 15 Withdrawal as party pltf. filed by Linda Knight.

Jan. 15 Withdrawal as party pltf. filed by Louise Washington.

Jan. 15 Withdrawal as party pltf. filed by Maggie Goodman.

Jan. 15 Withdrawal as party pltf. filed by Addie L. Goodman.

Jan. 15	Withdrawal as party pltf. filed by Patricia M. Johnson.
Jan. 15	Withdrawal as party pltf. filed by Joann M. Moses.
Jan. 15	Withdrawal as party pltf. filed by Hazel Barnes.
Jan. 15	Withdrawal as party pltf. filed by Debra F. Howard.
Jan. 15	Withdrawal as party pltf. filed by Cheryl Chewning.
Jan. 15	Withdrawal as party pltf. filed by xxxxxxxxx xxxxxxxxxxxxxx
Jan. 31	Deft's objections to pltfs' third interrogatories, filed.
Feb. 1	Memorandum in support of objections to interrogatories, filed by deft.
Feb. 6	Memorandum of the court filed.
Feb. 6	Order denying deft's motion to dismiss; overruling deft's objections to interrogatories of pltfs.; denying deft's motion for continuance, ent. 2-6-73. Copies mailed all counsel of record.
Feb. 22	Answer of defts.' & counterclaim, filed.
Feb. 26	Notice to take de bene esse deposition of Dr. George Willbanks filed by deft.
Feb. 26	Pltfs' List of Proposed Exhibits filed.
Feb. 23	Motion by deft. for definition of size of class & representative filed.
Feb. 26	Deft's Memorandum in support of motion for definition of size of class filed.
Feb. 28	Answers to pltfs' 3rd interrogatories filed by deft. G.E.
Feb. 28	List of Exhibits filed by deft. GE.
March 13	Stipulation extending time to and including 4-2-73 for pltfs. to answer counterclaim, filed.

	SO ORDERED, approved 3-14-73. Copies to counsel.
April 2	Notice to take deposition of Dr. George Willbanks filed by deft.
April 2	Motion of pltf. unions to dismiss counterclaim filed.
April 2	Memorandum in support of motion to dismiss counterclaim, filed.
April 10	Supplemental Answer by deft. GE to pltfs' third interrogatories, filed.
April 10	Certificate of service of above pleading filed by Stanley R. Strauss.
April 17	Pltfs' motion for order that Class Action May be Maintained, rec'd.
April 17	Memorandum in support of above motion rec'd. from pltfs.
April 17	Motion to pltfs. to add parties pltfs. to complaint, rec'd.
April 18	Opposition of General Electric Co. to motion to dismiss counterclaim filed by pltf.
April 20	Order granting motion of Women's Equity Action League, the National Organization for women and Human Rights for Women, for leave to participate in this matter as amici curiae in support of pltfs., with respect ONLY to the filing of such memoranda as the movants deem appropriate, ent. 4-20-73. Copies to counsel and movants.
April 20	(Above referred to motions to participate as amicus curiae lodged 4-20-73).
April 23	Opposition by GE to motion of Women's Equity Action League, National Organization of Women and Human Rights for Women, Inc. for leave to participate as amici curiae, filed.

April 26 Defts' Opposition to pltfs' motion to add parties pltf., filed.

April 27 MEMORANDUM reaffirming Court Order of 4/20/73 ent. 4/27/73 & filed. Copies mailed counsel.

April 30 Memorandum of the Court filed.

April 30 ORDER denying pltfs' motion to dismiss counterclaim; action declared to be a Class Action; designations of representatives of the class given; counsel directed to appear 5/3/73, 9:00 am; denying pltfs' motion to add parties plaintiff; ent. 4/30/73 & filed. Copies mailed counsel of record.

April 30 Pltfs' List of Proposed Exhibits, Interr and Answers, filed.

April 30 Orig. of deft's supplemental Memorandum re: class issued filed.

April 30 Pltfs' List of Expert Witnesses filed.

April 30 Affidavit of Dale McAllister filed on behalf of defts.

– Begin Pleadings File No. 3 here –

May 2 Defendant General Electric Company's List of Proposed Exhibits and Depositions it intends to offer, filed.

May 2 Revised Answer by defendant General Electric Co. to plaintiff's interrogatories.

May 4 Pre-trial Brief of Women's Equity Action League, National Organization for Women, Human Rights for Women, Inc., in support of plaintiffs, filed.

May 7 Motion of pltfs. as to form of notice to be posted, filed by pltfs.

May 8 Deft's proposed form of notice to be posted pursuant to order determining class suit filed.

May 8 PRE-TRIAL CONFERENCE IN OPEN COURT: Merhige, J. No OCR Appearances: Parties by counsel. Matter came on for pre-trial conference. Matter heard as to form of notice to be posted pursuant to order determining class suit. Court rejected proposed notices of pltfs and deft. Matter heard as to setting of new trial date. Case set for trial on July 24, 1973 at 10 A.M. Former pre-trial order extended and is in effect. Deft's motion to bring in additional defts, or in alternative to dismiss complaint filed. Pltfs to reply by Friday, May 11; Deft. to reply 5 days thereafter. Deft. to furnish pltfs with minutes as requested of G.E.

May 8 Motion to bring in Additional Defendants, or in the alternative to dismiss the complaint filed by deft.

May 8 Memorandum in support of Motion to bring in Additional defendants, or in the alternative to dismiss the complaint filed.

May 9 Legal Notice with respect to all female employees of General Electric Co. filed.

May 9 Motion to bring in third party defts. lodged by GE. Copies to counsel.

May 9 Order that the Legal Notice this day filed be distributed and promulgated in accordance with the terms set forth in said Notice, ent. 5-9-73. Copies to counsel.

May 11 Motion by pltfs. to amend legal notice with respect to all female employees of General Electric Company filed.

May 11 Memorandum in support to amend legal notice filed.

April 26 Defts' Opposition to pltfs' motion to add parties pltf., filed.

April 27 MEMORANDUM reaffirming Court Order of 4/20/73 ent. 4/27/73 & filed. Copies mailed counsel.

April 30 Memorandum of the Court filed.

April 30 ORDER denying pltfs' motion to dismiss counterclaim; action declared to be a Class Action; designations of representatives of the class given; counsel directed to appear 5/3/73, 9:00 am; denying pltfs' motion to add parties plaintiff; ent. 4/30/73 & filed. Copies mailed counsel of record.

April 30 Pltfs' List of Proposed Exhibits, Interr and Answers, filed.

April 30 Orig. of deft's supplemental Memorandum re: class issued filed.

April 30 Pltfs' List of Expert Witnesses filed.

April 30 Affidavit of Dale McAllister filed on behalf of defts.

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May 9 Motion to bring in third party defts. lodged by GE. Copies to counsel.

May 9 Order that the Legal Notice this day filed be distributed and promulgated in accordance with the terms set forth in said Notice, ent. 5-9-73. Copies to counsel.

May 11 Motion by pltfs. to amend legal notice with respect to all female employees of General Electric Company filed.

May 11 Memorandum in support to amend legal notice filed.

May 11 Pltfs' Opposition to defts; motion to add defts. with supporting memorandum, filed.

May 14 Answer of Pltf. Int. Union of Electrical, Radio and Machine Workers to Counterclaim filed.

May 14 ORDER amending legal notice referred to in Court's Order of May 9, 1973 as follows: date of June 11 & June 7th on Page 2 shall read June 25 & June 22, 1973; ent. 5/14/73. Copies mailed counsel.

May 14 ORDER directing distribution of Legal Notice filed May 9, 1973 ent. 5/14/73 & filed. Copies mailed all counse of record.

May 15 Deft. G.E.'s Listing of Managers rec'd.

May 15 Motion to bring in Third-Party Defendants filed by deft. GE.

May 15 Memorandum In Support of Deft's Request for Leave to File A Third Party Class Action filed by deft. GE.

May 16 Memorandum of the court filed.

May 16 Order denying deft's motion to compel joinder of nonparty unions; directing Clerk to file deft's motion for leave to file third party complaint; directing counsel for deft. to file within 15 days of this date a memorandum by which a cause of action against signatory unions is demonstrated with specificity; pltfs. may respond within 10 days thereafter, ent. 5-16-73. Copies to counsel.

May 16 Defts' Reply Brief in support to add defts. or dismiss complaint, filed.

May 18 Certificate of Seymour DuBow of delivery of envelopes to Clerk and Certificate of Clerk of mailing of envelopes containing legal notice, etc. filed.

May 24 Pltfs' 4th Interrogatories to deft., filed.

May 30 Affidavit of Thomas F. Hilbert, Jr., filed 5-8-73.

May 31 Supplemental Memorandum in support of GE's motion to bring in third party deft. filed by G.E.

May 31 Affidavit of E. Sidney Willis filed.

May 31 Affidavit of Thomas F. Hilbert, Jr., filed.

June 14 Reply Memorandum in opposition to GE's Motion to bring in third party defts. and in support of pltfs' motion to dismiss counterclaim, filed by pltf.

June 18 Notice of voluntary dismissal of 3rd party complaint filed by deft. & 3rd party pltf., General Electric Co.

June 18 Deft's Motion to dismiss counterclaim & to file amended answer, filed.

June 18 Deft's Motion to reconsider order denying compulsory joinder of non-party unions as class defts., filed.

June 18 Deft's Motion to dismiss their counterclaim and to file amended answer, "SO ORDERED" 6/18/73 & copies mailed counsel.

June 18 Amended Answer of deft,, filed.

June 29 Opposition to plfts. to motion of deft. for reconsideration of order denying compulsory joinder of nonparty unions as class defts., filed.

July 2 ORDER denying deft's motion to reconsider ent. 7-2-73 & filed. Copies to counsel.

July 5 Further Supplemental Answers to deft. to pltf's interrogatories, filed.

July 5 Notice to take deposition of Sonia Pressman Fuentes filed by deft.

July 17 Pltf's List of Proposed Exhibits, Interrogatories, Answers, Thereto, etc., filed.

July 17 Deft. GE's Supplemental List of Proposed Exhibits and Depositions it intends to offer, filed.

July 17	Deft GE's List of Interrogatories and answers thereto it intends to offer, filed.
July 19	Deft's List of Expert Witnesses filed.
July 19	Deft's Answers to 4th Interrogatories, filed.
July 20	De Bene Esse Deposition of Dr. George Wilbanks on behalf of deft., filed.
July 20	Deft's Suppl. Answers to Interrogatory No. 45, filed.
July 23	Deft. GE's Objections to Proposed Exhibits, filed.
July 23	Objections of pltfs. to exhibits which deft. GE proposes to offer, filed.
July 23	Findings of Fact and Conclusions of Law filed by pltfs.
July 23	Pltfs' Cross-Index of Lettered Exhibits in Stipulation of Facts to Numbered List of Pltfs' Proposed Exhibits, filed.
July 23	Pre-Trial Stipulation of Facts filed by pltfs.
July 24	Pre-Trial Stipulation of Facts filed by GE, with Exhibits.
July 24	Deft. GE's Second Supplemental List of Proposed Exhibits and Depositions it intends to offer, filed.
July 24	Motion of The Chamber of Commerce of the United States for Leave to participate as Amicus Curiae filed.
July 24	TRIAL PROCEEDINGS: Merhige, J. Halasz, OCR Appearances: Parties by/with counsel. Matter came on for trial on merits. Motion of the Chamber of Commerce of the United States for leave to participate as Amicus Curiae granted by the Court in accordance with Memorandum of the Court of 4-20-73. Court ruled on Deft's objections to Pltfs' Exhibits as follows: Objections to Pltfs' Exhibits, Nos. 59,

	60, 61, 62, 63, 64, 65, 88C, 88D and 88E sustained by the Court. All other objections overruled by the Court. Opening Statements waived. Pltfs adduced evidence. Deft's motion to strike the testimony of Pltfs' witness, Catherine East, heard; overruled by the Court. Pltfs' adduced further evidence. Matter cont'd until tomorrow at 11:00 A.M. (4 Hours 36 Minutes)
July 25	TRIAL PROCEEDINGS CONT'D: Merhige, J. Halasz, OCR Appearances: Parties by/with counsel. Matter cont'd from yesterday. Pltfs adduced further evidence. Deft withdrew Exhibits Nos. 6, 9, 14, 15, 43, 44, 45 and 46. The Court overruled all objections of pltfs to Exhibits of Deft. Pltfs adduced further evidence, rested. Deft. adduced evidence. Matter cont'd until tomorrow at 9:30 A.M. (4 Hrs. 58 Mins.)
July 26	TRIAL PROCEEDINGS: Merhige, J. Halasz, OCR Appearances: Parties by/with counsel. Matter cont'd from yesterday. Deft adduced further evidence, rested. Motion of pltfs. for a continuance until tomorrow in absence of a witness heard; objection of deft heard; motion denied by the Court. Briefing schedule set up as follows: Pltf to file brief within 3 weeks after the filing of the transcript; Deft. to reply within 3 weeks thereafter; Pltf to file reply within 1 week thereafter. Amicus to file any briefs within 2 Weeks after the filing of the transcript. Matter taken under advisement by the Court. (3 Hours, 40 Minutes)
July 27	Motion of the United States Equal Employment Opportunity Commission to file brief as Amicus Curiae filed.

July 27	Opposition to request of Equal Employment Opportunity Commission to file Amicus Curiae brief filed by Deft.
July 28	xxxxxxxxx and Findings of Fact and Conclusions of Law of Deft filed.
July 30	Supplementary List of Exhibits to Plaintiffs' Proposed List of Exhibits filed.
Aug. 2	Deft General Electric Company's Third Supplemental List of Proposed Exhibits filed.
Aug. 6	Memorandum of the Court filed. re: amicus curiae.
Aug. 6	ORDER granting motion of EEOC for permission of Court to file pleadings as amicus curiae ent. 8-6-73 & filed. Copies mailed as directed.
Aug. 21	Pltfs' Corrections to List of Exhibits, etc., filed.
Aug. 23	Orig. Reporter's Transcript of trial proceedings of July 24th, 25th and 26th, 1973, 3 volumes, filed.
Nov. 5	Amicus Curiae Brief of Chamber of Commerce rec'd.
Nov. 8	Amicus Curiae Brief of U.S. EEOC, received.
Nov. 8	Brief of Women's Equity Action League, Nat'l. Organization for Women, Human Rights for Women, Inc., received in support of Pltfs.
Nov. 15	Pltfs' Post-Trial Brief, received.
Nov. 19	Amicus Curiae Brief of U.S. Equal Employ. Opp. Commission, rec'd.
Dec. 4	Order extending time to and including 12-20-73 for deft. to file brief; extending time to and including 1-15-74 for pltfs. to file reply, ent. 12-4-73. Copies to counsel of record.
Dec. 20	Post-Trial of General Electric Company, rec'd.

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Jan. 15	Pltfs' post-trial Reply Brief, rec'd.
Jan. 17	Reply Brief, Amicus Curiae of United States Equal Employment Opportunity Commission, filed.
Jan. 25	Findings of Fact and Conclusions of Law proposed by pltfs., filed.
March 12	Corrections to Revised Findings of Fact and Conclusions of Law proposed by pltfs., filed.
April 12	Stipulation for Correction of Stenographic Transcript with Attachment filed.
April 13	Memorandum of the Court, filed.
April 13	ORDER enjoining and restraining deft from continuing policy of discriminating against members of class, in its failure to pay weekly disability benefits; monetary judgments to be entered in favor of members of affected class; hearing set for 4-19-74, 9:00 a.m. on all remaining issues; all other matters continued until further order ent. 4-13-74, filed. Copies to counsel.
April 15	Deft's Motion to Stay order of 4-13-74, filed.
April 18	Memorandum in opposition to deft's motion for stay filed by pltfs.
April 18	Motion to amend statement in court's opinion of 4-13-74, filed by pltfs.
April 19	Order amending court's memorandum of 4-13-74, as follows: the phrase "S&A benefits" contained contained in the fifth line of paragraph II on page 3, be, and the same is hereby, deleted, and there is substituted therefor "maternity expenses," ent. 4-19-74. Copies to all counsel of record.
April 26	Deft's Supporting Memorandum for motion to stay, filed.

May 1	Pltfs' Reply Memorandum in Opposition to Deft's Motion for Stay filed.
May 1	Memorandum in Opposition to deft's motion for stay filed by Amicus Curiae, EEOC.
May 8	Notice of appeal filed by defendant. Copies mailed purs. Rule 3.
May 9	ORDER staying enforcement of Paragraph 2 of order of April 13, 1974 until ruling on pending appeal; ent. 5-9-74, filed. Copies mailed.

IN THE
UNITED STATES DISTRICT COURT
FOR THE
EASTERN DISTRICT OF VIRGINIA

MARTHA V. GILBERT, SHARON E. GODFREY, BARBARA HALL, ALBERTA B. SMITH, JOHNNIE TAYLOR, DORIS B. WILEY and MARY R. WILLIAMS, on behalf of themselves and on behalf of all persons similarly situated, INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, AFL-CIO-CLC, an unincorporated association, and INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, AFL-CIO-CLC, LOCAL 161, an unincorporated association, *Plaintiffs,*	:	**CIVIL ACTION NO. 142-72-R**
v.	:	
GENERAL ELECTRIC COMPANY, a corporation Serve: James Olin Manager of Drive Systems 1501 Roanoke Blvd., Salem, Virginia 24153 *Defendant.*	:	

COMPLAINT

[Filed March 15, 1972]

1. This is an action to remedy discrimination because of sex in compensation, terms, conditions and privileges of employment in violation of federal statutes. The jurisdiction of this Court is invoked Section 706(f) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-5(f).

2. Each of the individual named plaintiffs, Martha V. Gilbert, Sharon E. Godfrey, Barbara Hall, Alberta B. Smith, Johnnie Taylor, Doris B. Wiley and Mary R. Williams, is a female and was employed by defendant, General Electric Corporation, hereinafter called GE, at its Salem, Virginia plant at the time she became pregnant, as more fully set forth hereinafter.

3. The individual named plaintiffs sue individually and on behalf of all present and former female employees of the defendant, GE, situated at all of its plants, offices and shops, wheresoever located, the number being in excess of 100,000 and hence so great as to make it inexpedient to join them all as plaintiffs, and all of them having been equally the victims of certain violations of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, as more fully set forth hereinafter. The named plaintiffs fairly represent the interest of all former and present female employees of the defendant GE.

4. The plaintiff, International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC, hereinafter called International Union, is the recognized bargaining representative of a national collective bargaining unit composed of employees of defendant GE at many plants scattered throughout the United States, among which are the production and maintenance employees of defendant GE at its Salem, Virginia, plant, including all of the individual named plaintiffs. At all times from 1949 to date the plaintiff, International Union, has been a party to a national collective bargaining

agreement with defendant GE. The 1970-1973 GE-IUE (AFL-CIO) National Agreement between the defendant GE and the plaintiff, International Union, signed February 4, 1970 and by its terms effective until May 26, 1973, a copy of which is attached hereto as Exhibit A, is applicable to the Salem, Virginia plant. A list of the plants represented by the plaintiff, International Union, appears at pages 1 to 5 of said contract. The plaintiff, International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC, Local 161, hereinafter called Local 161, is composed of the production and maintenance employees at the Salem, Virginia plant of the defendant GE and is the affiliate of said International Union to which the individual named plaintiffs and other employees of said Salem, Virginia plant belong. Said Local 161, along with the International Union, administers on behalf of said employees the national collective bargaining agreement between the plaintiff, International Union, and the defendant GE in its application to said Salem, Virginia plant.

5. The defendant GE is an employer within the meaning of Section 701(b) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-(b). It is a corporation which manufactures and distributes in interstate commerce electrical and electronic appliances, machinery and equipment for consumers, industrial and governmental use. It is duly organized and existing under the laws of the State of New York and is duly qualified to, and does, transact business in Virginia where it maintains and operates a plant at Salem, in which it employs more than 1,750 employees.

6. The defendant GE provides weekly non-occupational sickness and accident benefit payments to all its employees in an amount equal to 60 percent of an employee's normal straight time weekly wages up to a maximum benefit of $150 for each week he is absent from and unable to work

on account of any disability resulting from a non-occupational accident or sickness for a period up to and including 26 weeks for any one continuous period of disability or successive periods of disability due to the same or related cause, excepting therefrom only sickness and other disabilities arising from pregnancy, miscarriage or childbirth.

7. Each of the individual named plaintiffs was pregnant during the year 1971. The plaintiff Alberta B. Smith was required by the defendant GE to cease work and go on leave on July 15, 1971. At all times prior to August 1971 the defendant GE followed the policy of requiring employees to cease work when they were six months pregnant. The plaintiff Doris B. Wiley voluntarily went on leave on April 30, 1971 in accordance with her understanding of the policy followed by defendant GE. As a result of activities of the plaintiff International Union in calling the attention of the defendant GE to the decisions of the courts and of the Equal Employment Opportunity Commission (EEOC) holding that a pregnant employee was entitled to work so long as her physician advised her that she was able and to begin leave whenever her physician advised she was unable to work, the defendant GE changed its policy and the plaintiffs Martha Gilbert, Sharon Godfrey, Barbara Hall and Mary Williams each was permitted to, and did continue during her pregnancy to, work at her usual job with the defendant GE until her doctor advised her that she was disabled from work. The plaintiffs Martha V. Gilbert, Barbara Hall, Alberta D. Smith and Doris B. Wiley each thereafter returned to work at her usual job with defendant GE as soon as her doctor advised her that she was again able to work. The plaintiff Johnnie Taylor has been advised by her doctor that she may return to work on March 20, 1972 and the defendant GE has agreed that she may return to work on that date. The plaintiff Mary R.

Williams gave birth to a baby on or about March 1, 1972 and has not yet returned to work. The plaintiff Sharon Godfrey has not yet returned to work. The plaintiff Sharon Godfrey has not yet returned to work. Each of the individual named plaintiffs duly made claim for weekly non-occupational sickness and accident benefits for the period of such absence during which she was disabled from work, but the defendant GE refused to pay her any weekly non-occupational sickness and accident benefits or any other benefits on account of her absence from, and inability to, work. The seniority date, date of beginning of her absence from work on account of pregnancy and childbirth, date of return to work of each plaintiff who has returned to work and date of denial of claim for weekly non-occupational sickness and accident benefit payments, of the respective individual plaintiffs is as follows:

Name of Plaintiff	Seniority Date	Date of Beginning of Absence	Date of Return to Work	Date of Denial of Claim
Martha Gilbert	8-23-65	10-29-71	2-28-72	12-17-71
Sharon E. Godfrey	3-17-69	9-24-71		11-16-71
Barbara Hall	4-4-66	8-13-71	1-16-71	11-1-71
Alberta B. Smith	10-2-67	7-15-71	1-31-72	11-1-71
Johnnie Taylor	9-29-69	10-28-71		11-1-71
Doris B. Wiley	4-14-66	4-30-71	9-22-71	11-1-71
Mary R. Williams	11-13-70	9-13-71		11-1-71

8. The defendant GE has paid its male employees non-occupational weekly sickness and accident benefits for all absences up to a maximum of 26 weeks for any one continuous period of disability for every kind and type of non-occupational sickness and accident which any of its

male employees has ever had. The defendant GE has at all times refused to pay weekly sickness and accident benefits to any female employee for any absence due to disability arising from or related to pregnancy or childbirth. The defendant GE by its failure and refusal to pay weekly non-occupational sickness and accident benefits to each of the individual named plaintiffs for her absence due to disability from pregnancy and childbirth has engaged and is engaged in discrimination with respect to compensation, terms, conditions and privileges of employment, because of the plaintiff's sex, thereby engaging in an unlawful employment practice in violation of Section 703(a)(1) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-2(a)(1).

9. The plaintiffs, Martha V. Gilbert, Sharon E. Godfrey, Barbara Hall, Alberta B. Smith, Johnnie Taylor and Mary R. Williams each filed a charge with the Equal Employment Opportunity Commission (EEOC) alleging that the defendant GE had discriminated against her because of sex by failing and refusing to pay her non-occupational sickness and accident benefits for time lost due to disability from pregnancy and childbirth equal in amount of benefits and duration of benefits to that paid by defendant GE to males for time lost due to non-occupational disabilities arising from sickness or accident. The receipt of the charge mailed by the plaintiff Barbara Hall to EEOC was acknowledged by EEOC on January 5, 1972 and the charge was docketed as Case No. TDC2-0604. The receipt of the charge mailed by Martha V. Gilbert to the EEOC was acknowledged on February 7, 1972 and the charge was docketed as Case No. TDC2-0745. The charge mailed by the plaintiff Alberta B. Smith to the EEOC was docketed as Case No. TDC2-0671. Mary R. Williams, Johnnie Taylor and Sharon Godfrey all mailed their charges to EEOC in December 1971 at the same time that Barbara Hall mailed

her charge but have not received acknowledgement from EEOC.

10. The Equal Employment Opportunities Commission on or about March 14, 1972, issued one or more of the plaintiffs a suit letter notifying her pursuant to Section 706(e) of the Act that she might within thirty (30) days of the receipt of said letter, institute a civil action in the appropriate Federal District Court.

11. Each of the individual named plaintiffs and each of the other members of the class she represents, as a result of the unlawful employment practices above described, suffered the loss of weekly non-occupational sickness and accident benefits during the period of absence from work on account of pregnancy, childbirth and related disabilities.

12. The unlawful employment practices of the defendant GE above described have inflicted and will continue to inflict irreparable injury on the individual named plaintiffs and the class they represent unless this Court grants relief.

13. The plaintiff International Union and the plaintiff Local 161 owe a duty to each of the individual named plaintiffs and to other members of the class represented to represent each of them fairly and without discrimination because of sex. Following the issuance of EEOC Decision No. 71-1474, 3 EPG Par. 6221, 3 FEP Cases 588 (March 19, 1971) holding that an employer violated Title VII by refusing to pay non-occupational sickness and accident benefits to female employees for periods of disability due to pregnancy when male employees received such benefits for all their disabilities, the plaintiff International Union called this decision to the attention of defendant GE and requested the defendant GE to make such payments to all female employees represented by the plaintiff International

Union. The plaintiff International Union had numerous conference with the defendant GE during the latter part of 1971 and early 1972 in which the plaintiff International Union unsuccessfully so requested. By letter dated February 24, 1972 from John Shambo, General Chairman of IUE-GE Conference Board, to John Baldwin, Manager of Consulting Services, GE, the plaintiff International informed the defendant that GE's weekly non-occupational sickness and accident benefit plan and practices thereunder insofar as the defendant GE failed to provide weekly non-occupational sickness and accident benefits for employees absent on account of disabilities due to pregnancy, miscarriage or childbirth, discriminated unlawfully because of sex and made a written request of the defendant GE to agree to provide weekly non-occupational sickness and accident benefits for all periods of absence due to disabilities of females including those arising from pregnancy, miscarriage and childbirth. The plaintiff International Union and the plaintiff Local 161 may be subject to suits by female employees for failure to correct said unlawful employment practices. The plaintiffs International Union and Local 161 will suffer irreparable injury unless this Court grants relief.

14. The plaintiffs have no adequate remedy at law.

WHEREFORE, plaintiffs pray that this Court grant the following relief:

1. Enter an injunction directing the defendant GE to pay any employee absent because of disability arising from pregnancy, miscarriage or childbirth, weekly non-occupational sickness and accident benefits in the same amount, for the same period of time and on the same terms and conditions as if the employee had been absent for disability arising from any other sickness or accident.

2. Enter a judgment against the defendant GE and in favor of each of the individual plaintiffs for the amount of weekly non-occupational sickness and accident benefits to which she is entitled.

3. Enter judgment against the defendant GE and in favor of each other member of the class for the amount of weekly non-occupational sickness and accident benefits to which she is entitled.

4. Enter judgment against the defendant GE and in favor of each of the individual plaintiffs for the amount of damages she suffered as a result of the unlawful employment practices of the defendant GE.

5. Enter judgment against the defendant GE and in favor of each other member of the class for the amount of damages she suffered as a result of the unlawful employment practices of the defendant GE.

6. Grant any other relief which may be necessary to place each of the individual named plaintiffs and each other member of the class represented in the same position in which she would have been but for the unlawful employment practices of defendant GE.

7. Award the plaintiffs and the class represented costs and a reasonable sum to be paid by defendant as attorney's fees for plaintiffs and the class represented.

8. Grant such other relief as the Court may find appropriate.

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March 15, 1972

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

AMENDED ANSWER

[Filed June 18, 1973]

Defendant General Electric Company (hereafter "GE") answers the complaint (as amended by the conditional addition of parties plaintiff) as follows:

First Defense

Answering the numbered paragraphs of the complaint, GE:

1. Admits the allegations of paragraphs 1 and 5.

2. Admits the allegations of paragraph 2 except the following allegations: that Thelma Hubert was a female employee at defendant GE's Tell City, Indiana plant; that Cherry Osteen, Earnest Dean, Louise Cole, Marion Butt, and Louise Goldman were female employees at GE's Portsmouth, Virginia plant; and that Cheryl Chewvang and Joan Mosley were female employees at GE's Richmond, Virginia plant. GE states that a Velma Hubert was a female employee at its Tell City, Indiana plant, who was pregnant in 1971; that a Sherry Osteen, a Eunice Dean, an Eloise Cole, a Marion Butts, and a Maggie Louise Goodman were female employees at its Portsmouth, Virginia plant; that employees Osteen, Cole, and Goodman were pregnant in 1972, that employee Butts was pregnant in 1971, but that

it has no record of employee Dean's alleged pregnancy; and that a Cheryl Chewning and a Joan Moses were female employees at its Richmond, Virginia plant, who were pregnant in 1971 or 1972.

3. Admits the allegations of paragraph 3 that the individual named plaintiffs are seeking to sue individually and on behalf of all present and former female employees of defendant GE, and that the number of such present and former female employees of GE is in excess of 100,000. The other allegations of paragraph 3 are denied.

4. States that it is without knowledge or information sufficient to form a belief as to the truth of the allegation in paragraph 4 that the individual named plaintiffs who are employed at GE's Salem, Virginia plant, belong to Local 161. It admits the other allegations of paragraph 4. It states further with respect to the 1973 GE-IUE (AFL-CIO) National Agreement referred to in paragraph 4 that such National Agreement was, by its terms, entered into between GE and plaintiff International Union of Electrical, Radio and Machine Workers (AFL-CIO) acting for itself and in behalf of the IUE (AFL-CIO) Locals listed at pages 1-5 of such National Agreement and such other IUE (AFL-CIO) Locals as may be certified as collective bargaining representatives of GE employees, and that the bargaining units listed at such pages 1-5 are represented jointly by plaintiff International Union and the respective IUE (AFL-CIO) Locals there designated.

5. Admits the allegations of paragraph 6 that GE provides weekly non-occupational sickness and accident insurance to all its employees in an amount equal to 60 percent of an employee's normal straight-time weekly earnings up to a maximum weekly benefit of $150. It denies the other allegations of such paragraph. It states that non-occupational

sickness and accident benefit payments are paid employees who become totally disabled; that such payments to hourly-paid employees start with the eighth day of an employee's total disability (or with the first day of an employee's confinement in a hopsital as a bed patient, if earlier), and continue during the employee's total disability up to a maximum of 26 weeks for any one continuous period of disability or successive periods of disability due to the same or related cause or causes; that such payments for salaried employees who become totally disabled are determined differently; and that non-occupational sickness and accident benefit payments are not payable for any absence due to pregnancy or resulting childbirth or to complications in connection therewith. It further states that the weekly non-occupational sickness and accident insurance provided hourly-paid employees represented by plaintiff International Union of Electrical Radio and Machine Workers (AFL-CIO) and the latter's affiliated Locals is provided pursuant to contract between GE and said plaintiff International Union and the latter's affiliated Locals.

6. Denies the allegations of the first, second, third, and eleventh sentences of paragraph 7, but admits the allegation of the ninth sentence of such paragraph. It states that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of the fourth sentence of paragraph 7. It admits the allegation of the fifth sentence of paragraph 7 that the plaintiffs Martha Gilbert, Sharon Godfrey, Barbara Hali, and Mary Williams each was permitted to, and did continue during her pregnancy to, work at her usual job with the defendant GE until her doctor advised her to leave for medical reasons; it denies the other allegations of such fifth sentence. It admits the allegation of the sixth sentence of paragraph 7 that plaintiffs Gilbert, Hall, Smith, and Wiley returned to

work at their usual jobs for defendant GE after absences, but states that it is without knowledge or information sufficient to form a belief as to the truth of the other allegation of said sentence. It states that plaintiff Johnnie Taylor returned to work on March 20, 1972, after an absence, and states further that it is without knowledge or information sufficient to form a belief as to the truth of the allegation of the seventh sentence of paragraph 7 that Taylor was advised by her doctor that she could return to work on the latter date. It states with respect to the eighth sentence of paragraph 7 that after an absence plaintiff Williams returned to work on March 27, 1972, and states further that it is without knowledge or information sufficient to form a belief as to the truth of the other allegation of said eighth sentence. It admits the allegation of the tenth sentence of paragraph 7 that each of the individual named plaintiffs employed at GE plants in Tyler, Texas, Philadelphia, Pennsylvania, and Tell City, Indiana, made claim to GE for weekly non-occupational sickness and accident benefits for periods of absence due to pregnancy or resulting childbirth, and admits that such claims were denied. It admits the allegation of the twelfth sentence of paragraph 7 that GE has not made weekly non-occupational sickness and accident benefit payments to any of the individual named plaintiffs for absences during 1971 or 1972 due to pregnancy or resulting childbirth, but denies the other allegations of such sentence. It admits the allegations of the thirteenth sentence of paragraph 7, except to state as follows: the date of the return to work of plaintiff Barbara Hall is 1-17-72; the date of the beginning of absence of plaintiff Alberta Smith is 7-1-71, of plaintiff Johnnie Taylor is 10-29-71, and of plaintiff Doris B. Wiley is 5-1-71, and the seniority date of plaintiff Doris B. Wiley is 4-14-66, and the date of her return to work is 9-20-71.

7. Admits the allegation of paragraph 8 that at all times it has refused to pay weekly sickness and accident insurance benefits to any female employee for an absence due to pregnancy or resulting childbirth. It denies the other allegations of this paragraph.

8. Admits the allegations of paragraph 9 that plaintiffs Martha V. Gilbert, Johnnie Taylor, and Mary R. Williams each filed a charge with the Equal Employment Opportunity Commission (EEOC) alleging that GE had discriminated against her because of sex by failing to pay her non-occupational sickness and accident benefits for a period of absence due to pregnancy or resulting childbirth, and that plaintiff Gilbert's charge was docketed by the EEOC as Case No. TDC2-0745. It states that it is without knowledge or information sufficient to form a belief as to the truth of the other allegations of said paragraph 9.

9. States that it is without knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph 10.

10. Denies the allegations of paragraph 11.

11. Denies the allegation of paragraph 12 that the complaint describes unlawful employment practices committed by GE. The other allegations of paragraph 12 are legal conclusions requiring no answer.

12. States that the first sentence of paragraph 13 sets forth legal conclusions requiring no answer. It states further with respect to the allegations of such first sentence that neither plaintiff International Union nor plaintiff Local 161 owes any duty whatever to GE employees who are unrepresented for collective bargaining purposes or who

are within a collective bargaining unit which is not represented for bargaining purposes by either or both such plaintiffs. It denies the allegations of the second and third sentences of paragraph 13. It denies the allegation of the fourth sentence of paragraph 13 that John Baldwin is GE's Manager of Consulting Services, but admits the other allegations of this sentence. The fifth and sixth sentences of paragraph 13 set forth legal conclusions requiring no answer.

13. Paragraph 14 sets forth a legal conclusion requiring no answer.

Second Defense

The prerequisites to a civil action under Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. Sec. 2000e, *et seq.*) by plaintiffs with respect to the matters alleged in the complaint have not been satisfied in that: (a) Prior to the commencement of the action GE was not notified, either verbally or in writing, that plaintiffs had filed charges with the Equal Employment Opportunity Commission alleging that GE had engaged in unlawful employment practices as alleged in the compalint; (b) No investigation of plaintiffs' charges was made by the Equal Employment Opportunity Commission prior to the commencement of the action; and (c) Prior to the commencement of the action no opportunity was afforded GE by the Equal Employment Opportunity Commission to eliminate the unlawful employment practices charged by plaintiffs by informal methods of conference, conciliation, and persuasion.

Third Defense

GE has not engaged in discrimination with respect to the compensation, terms, conditions, or privileges of employment

of its female employees within the meaning of Section 703(a)(1) of Title VII of the Civil Rights Act of 1964 because: (a) The insurance coverage referred to in the complaint provides benefits to GE's male and female employees alike for total disabilities resulting from non-occupational sickness and accidents; and (b) Pregnancy and resulting childbirth are neither sicknesses nor the results of accidents; they are rather normal physiologic functions that are *sui generis*, the separate recognition of which is not an invidious classification by sex.

Fourth Defense

1. Section 713(b) of Title VII of the Civil Rights Act of 1964 provides in part: "In any action or proceeding based on any alleged unlawful employment practice, no person shall be subject to any liability or punishment for or on account of (1) the commission by such person of an unlawful employment practice if he pleads and proves that the act or omission complained of was in good faith, in conformity with, and in reliance on any written interpretation or opinion of the Commission . . . Such a defense, if established, shall be a bar to the action or proceeding, notwithstanding that (A) after such act or omission, such interpretation or opinion is modified or rescinded or is determined by judicial authority to be invalid or of no legal effect . . ."

2. GE cannot be held liable for the unlawful employment practice alleged in the complaint because its non-payment of sickness and accident benefits to its female employees for absences due to pregnancy or childbirth was in good faith, in conformity with, and in reliance on the written interpretations and opinions of the Equal Employment Opportunity Commission ("the EEOC")

issued as early as 1966 that: (a) the EEOC does not seek to compare an employer's treatment of illness or injury with his treatment of maternity; (b) an insurance or benefit plan may exclude maternity as a covered risk, and such exclusion is not discriminatory, and (c) an employer need not provide the same fringe benefits for pregnancy as he provides for illness. More specifically, GE acted in good faith, in conformity with, and in reliance on the aforesaid interpretations and opinions by the EEOC when on February 4, 1970, it signed a negotiated Pension and Insurance Agreement with plaintiff International Union and its affiliated IUE (AFL-CIO) Locals, effective until May 26, 1973, and providing that non-occupational sickness and accident payments are not payable for any absence due to pregnancy or childbirth or to complications in connection therewith.

3. The EEOC's "Guidelines on Discrimination Because of Sex," as amended and reissued on March 30, 1972 (37 F.R. 6835), effective on April 5, 1972, in which the EEOC set forth a position different from that stated by it in 1966 with respect to the relationship of pregnancy to illness or injury and the privileged exclusion of maternity from insurance and other benefit plans, are legally insufficient to modify or rescind the EEOC's 1966 contrary interpretations and opinions on such matters because: (a) Such Guidelines were not issued in conformity with the standards and limitations of the Administrative Procedures Act, as required by Section 13 of Title VII of the Civil Rights Act of 1964; and (b) Since the issuance of the Guidelines the EEOC has itself taken action inconsistent therewith.

Fifth Defense

Section 706(d) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e-5(d) provided that "a charge under

subsection (a) of this section shall be filed within 90 days after the alleged unlawful employment practice occurred . . ." Under such Section 706(d), the claims of all individual plaintiffs, whether named in the complaint or as members of the class the named individual plaintiffs purport to represent, whose own complaints would have been barred as untimely under such Section at the time this action was instituted, are barred, and GE is not liable in damages or otherwise for any allegedly unlawful act or omission on its part that occurred more than 90 days prior to the filing of the initial charge upon which the complaint is based.

Sixth Defense

The claims of all individual plaintiffs, whether named in the complaint or as members of the class the named individual plaintiffs purport to represent, who are represented for collective bargaining purposes by plaintiff International Union and its affiliated IUE (AFL-CIO) Locals, including plaintiff Local 161, are barred, and said plaintiff labor organizations are estopped from asserting claims on behalf of such individual plaintiffs, because such differences based on sex as may exist under the non-occupational sickness and accident insurance that is available and applicable to such individual plaintiffs have been adopted and effectuated pursuant to Pension and Insurance Agreements negotiated and agreed to by GE and plaintiff International Union acting for itself and in behalf of its affiliated IUE (AFL-CIO) Locals, including plaintiff Local 161. All the aforesaid plaintiffs who belong to bargaining units for which plaintiff International Union and its affiliated IUE (AFL-CIO) Locals, including plaintiff Local 161, are designated exclusive representatives must, by reason of the aforesaid

Pension and Insurance Agreements, be deemed to have agreed to be bound by the terms and conditions of the non-occupational sickness and accident insurance applicable to them, and to have waived any claim based upon sex discrimination resulting from or under such insurance.

Seventh Defense

The claims of all individual plaintiffs, whether named in the complaint or as members of the class the named individual plaintiffs purport to represent, who are represented for collective bargaining purposes by labor organizations which have agreed to or contracted for the non-occupational sickness and accident insurance referred to in the complaint and which is available and applicable to such individual plaintiffs, are barred. All such plaintiffs must, by reason of the contracts and agreements negotiated on their behalf by their designated exclusive bargaining representatives, be deemed to have agreed to be bound by the terms and conditions of the non-occupational sickness and accident insurance applicable to them, and to have waived any claim based upon sex discrimination resulting from or under such insurance.

Eighth Defense

In accordance with the terms and provisions of the non-occupational sickness and accident insurance referred to in the complaint, which provides benefits only for periods of total disability, GE is not liable in damages or otherwise to the named individual plaintiffs, or to the members of the class the named individual plaintiffs purport to represent, for any period or periods of absence due to pregnancy or resulting childbirth or to complications in connection therewith during which total disability was not present.

Ninth Defense

The claims of all named individual plaintiffs who have voluntarily withdrawn from this action are barred by reason of said withdrawals.

WHEREFORE, defendant General Electric Company respectfully requests that judgment be entered dismissing the complaint and awarding GE the costs and disbursements of this action.

GENERAL ELECTRIC COMPANY

By: /s/ JOHN S. BATTLE, JR.
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Dated: June 16, 1973

[Certificate of service omitted in printing]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

PLAINTIFFS' MOTION TO ADD PARTIES PLAINTIFFS TO COMPLAINT
[Filed June 24, 1972]

COMES NOW Plaintiffs in the above entitled action and Brenda Ancarrow, Shirley Avant, Peggy Bailey, Hazel Barnes, Marion Butt, Cheryl Chewvang, Brenda D. Christian, Louise Cole, Betty Davenport, Earnest Dean, Barbara De LaCruz, Gloria Fischer, Emma Mae Furch, Pat Gavin, Addie Goodman, Louise Goodman, Martha Hess, Bernadette Hines, Deborah Howard, Thelma Hubert, Mary Huebschman, Patricia Johnson, Linda Knight, Betty Labhart, Geraldine Lucifero, Sarah Mallory, John Mosley, Cherry Osteen, Barbara Richards, Helen Smith, Erma Faye Thomas, Phyllis Trotter, Louise Washington, Ellen Wells, La Verne White and Shirley Wiseman (hereinafter sometimes referred to as "Additional Parties Plaintiffs") and through their undersigned attorneys, move the Court, pursuant to the provisions of Rules 15 and 21, respectively, of the Federal Rules of Civil Procedure, for an order:

1. That Brenda Ancarrow, Shirley Avant, Peggy Bailey, Hazel Barnes, Marion Butt, Cheryl Chewvang, Brenda D. Christian, Louise Cole, Betty Davenport, Earnest Dean, Barbara Delacruz, Gloria Fischer, Emma Mae Furch, Pat Garvin, Addie Goodman, Louise Goodman,

Martha Hess, Bernadette Hines, Deborah Howard, Thelma Hubert, Mary Huebschman, Patricia Johnson, Linda Knight, Betty Labhart, Geraldine Lucifero, Sarah Mallory, Joan Mosley, Cherry Osteen, Barbara Richards, Helen Smith, Erma Faye Thomas, Phyllis Trotter, Louise Washington, Ellen Wells, La Verne White and Shirley Wiseman be added as Parties Plaintiffs in this action as of the date of the filing of this Motion

2. That Paragraph 2 of the complaint in the above action be amended by adding thereto following the end of the allegations now therein contained the following:

Each of the individual named plaintiffs, Emma Mae Furch and Erma Faye Thomas is a female and was employed by defendant GE at its Central Air Conditioning Plant at Tyler, Texas, at the time she became pregnant, as more fully set forth hereinafter. The plaintiff Geraldine M. Lucifero is a female and was employed by defendant GE at its Philadelphia Works at 59th and Elmwood Avenue, Philadelphia, Pennsylvania at the time she became pregnant, as more fully set forth hereinafter. The plaintiff Brenda Christian is a female and was employed by defendant GE at its Specialty Motors Department, 1635 Broadway, Fort Wayne, Indiana at the time she became pregnant, as more fully set forth hereinafter. Each of the plaintiffs Barbara Richards, Mary Huebschman,

Helen Smith, Shirley Wiseman, Betty Labhart, Thelma Hubert and Martha Hess is a female and was employed by defendant GE at its Tell City, Indiana plant at the time she became pregnant, as more fully set forth hereinafter. Each of the plaintiffs Phyllis Trotter, Louise Washington, Patricia Johnson, Linda Knight, Peggy Bailey, Cherry Osteen, Addie Goodman, Earnest Dean, Shirley Avant, Louise Cole, Pat Gavin, Marion Butt, Barbara Delacruz, Bernadette Hines and Louise Goldman is a female and was employed by defendant GE at its Portsmouth, Virginia plant at the time she became pregnant, as more fully set forth hereinafter. The plaintiffs Brenda Ancarrow, Hazel Barnes, Cheryl Chewvang, Betty Davenport, Gloria Fischer, Deborah Howard, Sarah Mallory, Joan Mosley, Ellen Wells and La Verne White is each a female and employed at the plant of GE on Staples Mill Road in Richmond, Virginia at the time she became pregnant, as more fully set forth hereinafter.

3. That Paragraph 4 of the complaint in the above action be amended to add after the word plaintiffs in each the 7th and 21st lines of said paragraph the following:

> who are employed at the Salem, Virginia, plant

4. That paragraph 7 of the complaint be amended to add after the word 1971 in the second line and before the period the following:

> or 1972

to add after the word plaintiffs in the 16th line appearing on page 4 the following:

> who are employed at Tyler, Texas, Philadelphia, Pennsylvania, and Tell City, Indiana.

to add after the word work in the 21st line:

> The Plaintiff Brenda Christian applied to the defendant GE for the usual form used to file claims for weekly non occupational sickness and accident benefits but the defendant GE asserted that it was not providing such forms to pregnant women. All of the individual named plaintiffs were absent from work due to disability from pregnancy or childbirth during 1971 or 1972 and are entitled to be paid weekly sickness and accident benefits by defendant GE for the periods of such absence; but defendant GE has failed and refused to pay any of them such benefits.

add after the word plaintiff in the 23rd line on page 4:

> who is employed at the Salem, Virginia plant and

and add after the word plaintiffs in the 25th line on page 4:

> who are employed at the Salem, Virginia plant

5. That paragraph 13 of the complaint be amended to add after the word plaintiffs in the 2nd line the following:

who are employed at the Salem, Virginia plant

All of the Additional Parties Plaintiffs are members of the same class as the original individual named plaintiffs. All of the Additional Parties Plaintiffs were entitled to be paid by the defendant GE and were denied by the defendant GE weekly nonoccupational sickness and accident benefits during periods of disability from pregnancy or childbirth. Each of the Additonal Parties Plaintiffs learned of this suit after it was filed and requested that she be added as a party plaintiff to this suit.

/s/ Seymour DuBow
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/s/ Ruth Weyand
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Attorneys for Plaintiffs.

July 24, 1972

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

OPPOSITION OF GENERAL ELECTRIC COMPANY TO PLAINTIFFS' MOTION TO ADD PARTIES PLAINTIFFS TO COMPLAINT

[Filed August 14, 1972]

General Electric Company (hereinafter "GE") respectfully opposes plaintiffs' motion to add parties plaintiffs to the complaint, and in support of its opposition shows as follows:

1. Plaintiffs' motion was filed with the Court on July 24, 1972, some four months after the complaint was filed, and on the same day that the Court heard oral argument on GE's motion for change of venue. Plaintiffs' motion, made pursuant to Rules 15 and 21 of the Federal Rules of Civil Procedure, seeks to add as parties plaintiffs 36 named individual females who work or worked in five GE plants located, respectively, in Richmond and Portsmouth, Virginia; Tyler, Texas; Philadelphia, Pennsylvania; and Fort Wayne and Tell City, Indiana. Twenty-five of such named individuals work or worked in GE's plants in Richmond and Portsmouth, Virginia, places within the Eastern District of Virginia.

At the oral argument before the Court on July 24, plaintiffs' counsel asked the Court to defer its ruling on GE's motion to transfer until it had considered plaintiffs' motion

to add parties. Even had such a request not been made, it is patent, we submit, in view of the timing and contents of plaintiffs' motion to add parties, as well as plaintiffs' vigorous efforts to overturn the Court's prior transfer order, that the real purpose underlying plaintiffs' motion is to thwart the transfer of this action to the Western District of Virginia.

2. A party may not be added by amendment of the complaint as a matter of course. Rule 21 of the Federal Rules of Civil Procedure, not Rule 15, governs the procedure for adding parties; and Rule 21 requires express approval by the court, by order, to effect such additions. *Gordon v. Lipoff*, 320 F. Supp. 905, 922 (W.D. Mo. 1970), and cases cited therein; *Spencer v. Dixon*, 290 F. Supp. 905, 922 (W.D. La. 1968); 3 Moore's Federal Practice § 15.07 [2], p. 858. Here, as shown below, Court approval of plaintiffs' motion to add parties should not be allowed.

3. The complaint herein alleges (par. 3) that the instant suit is brought as a class action on behalf of more than 100,000 present and former female employees of GE, situated at all of GE's plants, offices, and shops, wheresoever located. It is clear, therefore, that the 36 individuals now sought to be added to the lawsuit as parties plaintiffs are included within the class so delineated in the complaint. The complaint further alleges (par. 3) that the original seven named individual plaintiffs "fairly represent the interest of all former and present female employees of the defendant GE."

Thus, because the complaint alleges a class action, Rule 23 of the Federal Rules of Civil Procedure, which provides for the maintenance of class actions, governs the conduct of the instant case. Technically, the addition as parties plaintiff to a Rule 23 class action of individual persons who

are potential members of the class as originally pleaded is accomplished, not by motion to join parties plaintiff, as is attempted here, but by motion for intervention in the class suit. Furthermore, since no proceedings under Rule 23(c) and (d) have been instituted in this case to determine the nature and scope of the issues to be litigated, it is fundamental that intervention in this action by additional parties who are potential class members, and who seek the status of parties plaintiff, is subject to the provisions of Rule 24 of the Federal Rules of Civil Procedure. 3B Moore's, Federal Practice, § 23.90 [2], at pp. 1626-1627. Advisory Committee's Notes on Federal Rule 24, 1966 Amendments, 28 U.S.C.A., p. 197, 1972 Pocket Supp.

Rule 24(a), which governs intervention of right in class suits, requires a showing that the interests of those seeking to intervene will not be adequately represented by the original parties, and provides, as follows:

> (a) Intervention of Right. Upon timely application anyone shall be permitted to intervene in an action: (1) when a statute of the United States confers an unconditional right to intervene; or (2) when the applicant claims an interest relating to the property or transaction which is the subject of the action and he is so situated that the disposition of the action may as a practical matter impair or impede his ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

Again, the grounds for addition of parties plaintiff, or, more properly, for intervention, in class actions are subject to the condition that a showing must be made that the interests of those seeking to be added as parties [illegible]

not be adequately represented by the existing parties. Absent such a showing, intervention, or the joinder of additional parties, will not be allowed. 3B Moore's Federal Practice, § 23.90 [1], pp. 1601-1604; § 24.09-1 [4], pp. 24-314-24-315.

Plaintiffs' motion to join additional parties plaintiffs does not allege that representation by the original seven parties plaintiff will be inadequate. Accordingly, as there has been no allegation or showing that representation of the class by the original seven parties plaintiff is, or will be, inadequate, potential class members may not, under Rule 24(a), intervene in, or be joined as parties plaintiff to, this class action at this time. For the same reason, permissive intervention under Rule 24(b) should also be disallowed.

4. In a class action, such as the instant lawsuit, the residence of the representative parties – here, the originally named seven individual plaintiffs whose representative capacity is not in issue – is a determinative factor with respect to jurisdiction and venue matters. See *Calogez v. Calhoun*, 309 F.2d 248, 253 (5th Cir. 1962); *Research Corp. v. Pfister Associated Growers, Inc.*, 301 F. Supp. 497, 501 (N.D. Ill. 1969). Furthermore, as noted above, as there has been no challenge to the representative capacity of the original seven named individual plaintiffs, the individuals now sought to be added as parties plaintiffs have no standing to intervene, and consequently their residences are not relevant to the determination of GE's motion to transfer under 28 U.S.C. § 1404(a).

Plaintiffs' motion to add additional parties plaintiffs must be viewed, we submit, as a contrived device for making an inconvenient forum – the Eastern District of Virginia – a more acceptable forum. The Supreme Court has soundly

condemned such a tactic. In *Van Dusen v. Barrack*, 376 U.S. 612, 623-624 (1964), the Court said:

> . . . in construing § 1404(a) we should consider whether a suggested interpretation would discriminatorily enable parties opposed to transfer, by means of their own acts of omissions, to prevent a transfer otherwise proper and warranted by convenience and justice.
>
> * * *
>
> The possibilities thus suggested by the facts of the present case amply demonstrate that the limiting phrase of § 1404(a) should be construed to prevent parties who are opposed to a change of venue from defeating a transfer which, but for their own deliberate acts or omissions, would be proper, convenient and just. The power to defeat a transfer to the convenient federal forum should derive from rights and privileges conferred by federal law and not from the deliberate conduct of a party favoring trial in an inconvenient forum.

Moreover, the conduct of parties after the institution of a lawsuit is not relevant with respect to transfer motions under 28 U.S.C. § 1404(a). This was made plain by the Supreme Court in *Hoffman v. Blaski*, 363 U.S. 335 (1960) where the Court quoted with approval the following language from a Third Circuit case (363 U.S. at 343):

> . . . In the normal meaning of words . . . § 1404(a) directs the attention of the judge who is considering a transfer to the situation which existed when suit was instituted.

Accord: Jacobs v. Tenney, 316 F. Supp. 151, 169-170 (D. Del. 1970). And see particularly *Gould v. Cornelius Company*, 258 F. Supp. 701, 702-703 (N.D. Okla. 1966), where the court denied a motion by the plaintiff to add a new party defendant because the requested joinder was aimed solely at thwarting defendant's pending motion to transfer under 28 U.S.C. § 1406(a).

5. Finally, we invite the Court's attention to the attached affidavits of Lewis R. Holly and Carmen J. Romeo and the letters addressed to the Court by Joann M. Moses, Hazel T. Barnes, Cheryl A. Chewning, Nora H. Davenport, Debra Howard and Sarah T. Mallory. These affidavits and letters establish with respect to the ten females employed at GE's Richmond plant whose joinder as parties plaintiffs is requested in plaintiffs' motion that: (1) none of these individuals authorized plaintiffs herein to seek to have their names added as parties plaintiffs in the instant action; (2) none had even been approached for such authorization before plaintiffs' motion to add was filed; (3) at least six of these individuals have advised the Court that they do not wish to be made parties plaintiffs in this action; and (4) none of these individuals has ever filed a claim under GE's Weekly Sickness and Accident Insurance for disability arising out of, or connected with, pregnancy.[1]

---

[1] GE's plant in Portsmouth, Virginia, shut down for summer vacation on Friday, July 28, 1972, and will remain closed until Monday, August 14, 1972. The closing has interfered with efforts by GE to conduct inquiries among the individuals employed at the Portsmouth plant with respect to plaintiffs' motion to add parties. However, GE's attorneys have been told by GE officials that, on the basis of inquiries thus far made at the Portsmouth plant, three of the persons named in plaintiffs' motion who are there employed have stated that they have not authorized the use of their names in connection with

(continued)

In such circumstances, plaintiffs' motion stands, at least with respect to the Richmond Plant employees, as nothing more than a device to thwart the transfer of this action as requested in GE's motion to transfer. In an analogous situation, that involving the joinder of parties in order to defeat the removal of an action from a state court into a Federal Court, the joinder may be shown to be a sham and a device and, if so, will be disregarded. *Wilson v. Republic Iron & Steel Company*, 257 U.S. 92, 97 (1921); *Wecker v. National Enameling & Stamping Co.*, 204 U.S. 176 (1907); *Lobato v. Pay-Less Drug Stores*, 261 F.2d 406, 408-409 (10th Circ. 1958); *Covington v. Indemnity Ins. Co. of N.A.*, 251 F.2d 930 (5th Circ. 1958); *James v. National Pool Equipment Co.*, 186 F. Supp. 598 (S.D. Ill. 1960); *Carter v. Seaboard Coast Line Ry. Co.*, 318 F. Supp. 368 (D. So. Car. 1970) (Motive behind assignment of interest held material); *Gentle v. Lamb-Weston, Inc.*, 302 F. Supp. 161 (D. Me. 1969).

CONCLUSION

For the foregoing reasons, General Electric Company respectfully submits that plaintiffs' motion to add parties plaintiffs to the complaint should be denied. Alternatively, the Company respectfully submits that the Court should rule on GE's motion for change of venue without reference to plaintiffs' motion to add parties or to whatever action the Court may take with respect to it.

---

[1] (continued) plaintiffs' motion to add parties, and, indeed, that their authorization had never been sought.

/s/ John S. Battle, Jr.
JOHN S. BATTLE, JR.
ROBERT H. PATTERSON, JR.
McGUIRE, WOODS & BATTLE
1400 Ross Building
Richmond, Virginia 23219
Phone: 703–643-8341
THEOPHIL C. KAMMHOLZ
LAURENCE I. WOOD
STANLEY R. STRAUSS
1705 Pennsylvania Avenue, N.W.
Washington, D.C. 20006
Phone: 202–298-6445

Attorneys for Defendant.

Dated: August 4, 1972

[Certificate of service omitted in printing]

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

AFFIDAVIT OF
CARMEN J. ROMEO

STATE OF VIRGINIA :
CITY OF RICHMOND : to wit:

CARMEN J. ROMEO, being duly sworn, says:

1. I am Carmen J. Romeo, Manager of Employee Relations for the General Electric Industrial Control Products Department, Richmond, Virginia.

2. This affidavit is based on personal information obtained from interviews with each of the nine employees named below.

3. Mr. Lewis R. Holly had reported that several employees were very upset when they learned that their names had been used in this suit and requested information on how they could have their names removed.

4. On Wednesday, August 2, 1972, I offered to assist Hazel Barnes, Cheryl Chewning, Nora Davenport, Debra Ho Howard, Sarah Mallory, Joann Moses, LaVerne White, Ellen Wells and Gloria Fisher in notifying the Court if they desired to have their names removed. I made clear to each employee that there was no pressure to accept this offer of assistance.

5. I made clear to them that I would assist them either by suggesting wording for a letter or by giving them the name of the court case and of the Judge. As a result of this, six of the employees prepared letters, the original copies of which are attached to my affidavit as Exhibits 1-6. Ellen Wells and LaVerne White asked more time to think about my offer, and Gloria Fisher declined. I did not talk with Brenda Ancarrow because she was then at home.

/s/ CARMEN J. ROMEO
Carmen J. Romeo

[Jurat omitted in printing]

EXHIBIT 1

Judge Mehrige
U.S. District Court
Eastern District Virginia
Richmond, Va.

Dear Sir:

I.U.E. does not have my permission to use my name on the Court case concerning maternity leave. It is my wish that my name be taken off.

Sincerely,

/s/ JOANN M. MOSES
Joann M. Moses

EXHIBIT 2

Judge Mehrige 8/2/72
U.S. District Court
Eastern District, Va.
Richmond, Va.

I am an employee of G.E. in Richmond, Va. and the company has told me that IUE has used my name as a plaintiff in a civil action no. 142-72-R called Martha V. Gilbert, et al. vs. G.E. Company. I have not given my permission to IUE or anybody else to use my name in this case. I don't want my name used and I respctly request that it be removed.

/s/ HAZEL T. BARNES
Hazel T. Barnes

EXHIBIT 3 8-2-72

Judge Mehrige
U.S. District Court
Eastern District of Va.
Richmond, Va.

Dear Sir:

I am an employee of General Electric at the Richmond plant. I first learned that my name had been entered as a plaintiff by I.U.E. in a civil action called Martha V. Gilbert, et al. vs. General Electric Co. through a company spokesman. I have never been approached by IUE nor have I given my permission for my name to be used in this action to I.U.E. or anyone else.

I hereby request that my name be removed from this civil action 142-72-R.

Yours truly,

/s/ CHERYL A. CHEWNING

EXHIBIT 4

Judge Mehrige
U.S. District Court
Eastern District of Va.
Richmond, Va.

I am an employee of General Electric of Richmond, Va. The company told me last week that my name had been entered by IUE in a civil action 142-72-R called Martha V. Gilbert et al. vs. General Electric Co. I have never given permission to IUE or anyone else to use my name as a plaintiff in this civil action. I hereby request that my name be remove from this action.

/s/ NORA H. DAVENPORT

8-2-72

EXHIBIT 5

Judge Mehrige
U.S. District Court
Eastern District Virginia
Richmond, Va.

I am an employee the General Electric Plant in Richmond, Va. The company has told me that I.U.E. has entered my name as a plaintiff in a Civil Action 142-72-R called Martha V. Gilberts et al vs. General Electric. I have never given my permission to I.U.E. or anyone else to use my name in this Civil Action. I don't want my name used in this action and I hereby request that my name be removed as a plaintiff.

/s/ DEBRA HOWARD

Aug. 2, 1972

EXHIBIT 6

Judge Mehrige
U.S. District Court
Eastern District Va.
Richmond, Va.

I am an employee of the G.E. plant in Richmond, Va.

The Company has told me that IUE has entered my name as a plaintiff in a Civil Action 142-72-R called Martha V. Gilbert et al. vs. General Electric. I have never given my permission to IUE nor anyone else to use my name in this case. I don't want my name used in the case and hereby request that my name be removed from the case.

/s/ SARAH T. MALLORY

8-2-72

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

AFFIDAVIT OF LEWIS R. HOLLY

STATE OF VIRGINIA :
CITY OF RICHMOND : to wit:

LEWIS R. HOLLY, being duly sworn, says:

1. I am Lewis R. Holly, a Personnel Specialist for General Electric Company's Industrial Control Products Department, Richmond Plant.

2. My testimony is based on personal information, review of Company records kept in the ordinary course of business and personal interviews with each of the ten employees named below.

3. At our attorneys' request, I talked with Brenda Ancarrow, Hazel Barnes, Cheryl Chewning, Nora Davenport, Gloria Fisher, Debra Howard, Sarah Mallory, Joann Moses, LaVerne White and Ellen Wells. We do not have a record of a Cheryl Chewvang or a Joan Mosley employed at this plant, but I assume the plaintiffs intend Cheryl Chewning and Joann Moses who were out on pregnancy leave within the past two years.

4. As Personnel Specialist, I know each of these employees and have dealt with most of them on various personnel matters.

5. On July 27 and 28, 1972, I asked each employee whether their names were being used in this suit with their knowledge or with their permission. All ten employees denied giving permission to anyone to use their names and further denied having any knowledge that their names had in fact been used.

6. I tried to make it very clear to the employees that the purpose of my question was merely to seek information regarding the question which the attorneys had posed to me and that their answers would have no effect on their status as employees with the Company.

7. Some of the employees were very upset when they learned that their names had been used, and Cheryl Chewning, Nora Davenport and Debra Howard sought my advice on how to have their names removed.

8. I have reviewed the plant records regarding benefit claims and find that none of the ten employees listed above have filed a claim for weekly sickness and accident benefits relative to maternity claims.

/s/ LEWIS R. HOLLY
Lewis R. Holly

[Jurat omitted in printing]

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LAW OFFICES
McGUIRE, WOODS & BATTLE
Ross Building
RICHMOND, VIRGINIA 23219
Cable Address McWoBat
Telephone (703) 643-8341

August 10, 1972
[Filed August 11, 1972]

Mr. W. Farley Powers, Jr., Clerk
Eastern District of Virginia
Richmond Division
Richmond, Virginia

Re: Martha V. Gilbert, et al v. General Electric Company Civil Action No. 142-72-R

Dear Mr. Powers:

Enclosed are two additional affidavits in support of defendant's brief in opposition to plaintiffs' motion for leave to add additional parties plaintiff.

I would appreciate your filing these with the other papers in this matter.

I have, today, mailed copies of the affidavits to Seymour DuBow and Ruth Weyand, counsel for plaintiffs.

Very Truly yours,

J. Robert Brame, III

JRS/bc
Enc.
cc: Stanley R. Strauss, Esquire

Seymour DuBow, Esquire

Ruth Weyand

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

AFFIDAVIT OF
R. LAURENCE HOWES
[Filed August 11, 1972]

I, R. Laurence Howes, being duly sworn depose and say as follows:

1. I am the R. Laurence Howes who is employed as manager of employee and community relations by the Television Receiver Products Department of the General Electric Company at Portsmouth, Virginia.

2. This affidavit is based on my conversation with Louise Washington, Barbara De La Cruz, Linda Knight, Maggie Goodman, Patricia Johnson, Marion Butts and Phyllis Trotter.

3. Mrs. Shirley Short reported that a number of employees were concerned that their names had been used in connection with a law suit without their knowledge and had indicated a willingness to make a statement to that effect. I indicated I would help.

4. I helped with statements from Louise Washington, Barbara De La Cruz, Maggie Goodman, Patricia Johnson, Marion Butts and Linda Knight. These are attached to my affidavit as exhibits 1 through 6.

5. Phyllis Trotter talked to me and wished to ask questions about the law suit. She said she knew of the law suit, but was not clear as to the issues. She indicated her preference that her name not be used.

6. In my discussions with all the employees named above I made it clear that in no way did I want to misrepresent the facts, as told to me, and that the statement should represent a true expression of their feelings in this matter.

/s/ R. LAURENCE HOWES

R. Laurence Howes

[Jurat omitted in printing]

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EXHIBIT 1

August 9, 1972

Judge Merhige
U.S. District Court
Eastern District of Virginia
Richmond, Virginia

I last work for General Electric July 1971. I left the company after given birth to twins. I had no knowledge that my name was being used in a law suit against General Electric over pregnancy benefits. I did not give permittion for my name to be used. I don't want it used in a law suit.

/s/ Marian Butts

EXHIBIT 2

August 8, 1972

Judge Merhige
U.S. Dist. Court
Eastern Dist. of Va.
Richmond, Va.

This is to advise that no one discussed a legal suit for maturnity benefits with me and did not authorise my name to be used in a law suit against G.E. I do not wish my name to be used.

Very truly yours,
/s/ Barbara J. De La Cruz

EXHIBIT 3

August 8, 1972

Judge Merhaige
U.S. District Court
Eastern District of Va.
Richmond, Va.

No one asked my permission to use my name in a lawsuit. I donot wished my name to be used, and have no intention of granting permission for my name to be used in a lawsuit. I understand that a suit has been filed in Richmond over pregnancy benefits. I donot wish to be involved in this suit.

/s/ Linda Knight

EXHIBIT 4

August 8, 1972

Judge Merhige
U.S. District Court
Eastern District of Va.
Richmond, Va.

I see no reason to suite G.E. for Maternity Benefits. I do not wish my name enter in the law suite file in your court in Richmond.

/s/ Louise Washington

EXHIBIT 5

(No date)

Judge Merhige
U.S. district Court
Eastern District of Virginia
Richmond, Va.

I understand that my name has been file in connection with a law suit against G.E. over pregnancy benefits. No one asked my permission to use my name. I do not wish to have my name used in this lawsuit.

/s/ Mrs. Maggie L. Goodman

EXHIBIT 6

August 8, 1972

Judge Merhige
U.S. District Court
Eastern District of Virginia
Richmond, Virginia

No one talked to me about being part of a lawsuit against General Electric over pregnancy benefits.

I do not wish to participate and have no intention of giving anyone permission to use my name. I do understand that such a lawsuit has been filed in your court.

/s/ Patricia M. Johnson

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

AFFIDAVIT OF
SHIRLEY C. SHORT
[Filed August 11, 1972]

I, Shirley C. Short, being duly sworn say as follows:

1. I am a Specialist Employment in the Television Receiver Products Department of General Electric Company located in Portsmouth, Virginia.

2. My testimony is based on review of Company records kept in the ordinary course of business and conversations with the employees named herein below.

3. On Friday, July 28, 1972 prior to vacation shutdown at the request of Company attorneys I contacted just as many employees on a list furnished to me as I could. I talked to Addie Goodman, Marion Butts, Rose Hines, Shirley Avant and Elois Coles. All told me that they had no knowledge that their names were being used and that they had not given permission or authorized anyone to use their names in a law suit.

4. The Portsmouth plant was scheduled to shutdown for vacation the first two weeks in August. I was scheduled to work the second week and on August 7th and 8th talked to additional employees on the list.

5. Louise Washington, Barbara De La Cruz, Peggy Bailey, Linda Knight, Maggie Goodman, Patricia Johnson

indicated that they had no knowledge that their names were being used in a law suit against General Electric, that they did not wish to have their names so used and indicated willingness to write a statement to that effect.

6. I called Sherry Osteen, Patricia Gavin and Eunice Dean by telephone and was unable to reach anyone at their home on July 28th and August 8th and 9th.

7. Examination of Eunice Deans employment record shows that she left on personal illness February 21, 1969. She was paid weekly sickness and accident benefits from February 7th to November 4th, 1969. She was removed from payroll for an absence over one year on May 13, 1970. There is no record of her taking pregnancy leave.

8. Review of plant records indicate that none of the fifteen employees on the list furnished by the attorneys had ever filed for weekly sickness and accident benefits relative to maternity claims.

9. I explained to each of the employees that their willingness to make statement or not would not have any effect on their status as employees of the Company.

/s/ SHIRLEY C. SHORT
Shirley C. Short

[Jurat omitted in printing]

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

ORDER
[Filed September 25, 1972]

In accordance with the memorandum of the Court this day filed, and deeming it just and proper so to do, it is ADJUDGED and ORDERED that:

1. Defendant's motion to change venue be, and the same is hereby, denied.

2. Plaintiff's motion to add parties plaintiff be, and the same is hereby, CONDITIONALLY granted, pending notice to the Court of said parties plaintiff of intentions not to intervene herein.

Let the Clerk send copies of the memorandum and this order to counsel of record.

/s/ Robert N. Merhige, Jr.
United States District Judge

Date: 9-25-72

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

MEMORANDUM
[Filed September 25, 1972]

Plaintiffs, alleging that they are victims of sex discrimination employed by the defendant in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, seek relief as a class. The immediate issues before the Court are premised on a motion by defendant employer for a change of venue, and one by plaintiffs seeking leave to add parties plaintiff to the complaint and to amend said complaint.

It is fairly obvious that the suggested addition of parties plaintiff and an amended complaint is for the primary purpose of overriding any adverse venue or jurisdictional determination that this Court has made or may make against named plaintiffs' stated desire to litigate in this division. It should be noted that the presently named plaintiffs purport to represent a national class, and the Court cannot conceive of any purpose of adding predominantly local named plaintiffs other than an effort to affect venue and jurisdictional requirements.

The Court's consideration of the pending motions requires a brief statement as to the background of this matter, as follows:

On May 10, 1972, upon receipt and consideration of papers and pleadings submitted by defendant on a motion to

transfer venue, and upon the response thereto by plaintiffs, this Court ordered *sua sponte*, without a hearing, having concluded that the issue was ripe for decision, that this action be transferred to the Western District of Virginia. Plaintiffs contending that they in effect had the right to select this division as their forum, sought review of the Court's order by way of an application for a writ of mandamus to the United States Court of Appeals for this Circuit. On consideration of same the Court of Appeals vacated the order of transfer and remanded the matter for a hearing, which the Court held on July 24, 1972. It was on that date that plaintiffs moved to add parties plaintiff to the complaint and requested the Court to defer its ruling on defendant's motion to transfer until subsequent to a ruling on their motion to add parties, their purpose being reasonably obvious.

The Court in its determination of the motion to add parties plaintiff pursuant to Rule 21, Fed. R. Civ. P., is duty bound to exercise its sound discretion. See Barron & Holtzoff, *Federal Practice and Procedure*, (Wright Ed.) § 543. While the Court is required to exercise its judicial discretion, it is not inclined to, and has not in that exercise been influenced by the efforts of plaintiffs to override its jurisdictional and venue determinations by a technical use of pleadings and motion practice. See *Van Dusen v. Barrack*, 376 U.S. 612, 624 (1964).

In considering the equities, the Court of necessity gives great weight to the fact that the litigation is presently at an initial stage, hence the addition of parties plaintiff would have no prejudicial effect upon the existing named parties as might occur if the case were at a later stage of litigation. The Court concludes that plaintiffs should be sustained on

their motion to add parties plaintiff and amend the complaint. This conclustion is reached only after having determined that regardless of the Court's ruling in that regard the plaintiffs must, in addition, be sustained on their contention that the Court was in error in its prior ruling.

Upon reconsideration of the arguments and pleadings herein, the Court is convinced that its earlier reliance upon *Stebbins v. State Farm Mutual Auto. Ins. Co.*, 413 F. 2d 1100 (D.C. Cir. 1969), and its stated construction of 42 U.S.C. 2000e-5(f), was misplaced. No effort on the part of the Court to explain its original error in this regard would change the fact that simply stated, the Court erred. No longer buttressed by its original misreliance on *Stebbins, supra,* the issue herein, i.e. construction of 42 U.S.C. § 2000e-5(f) is, the Court being unaware of any case precedent thereto, one of first impression.

The statute in question provides as follows:

> (f) Each United States district court and each United States court of a place subject to the jurisdiction of the United States shall have jurisdiction of the actions brought under this subchapter. Such an action may be brought in any judicial district in the State in which the unlawful employment practice is alleged to have been committed, in the judicial district in which the employment records relevant to such practice are maintained and administered, or in the judicial district in which the plaintiff would have worked but for the alleged unlawful employment practice, but if the respondent is not found within any such district, such an action may be brought

> within the judicial district in with the respondent has his principal office. For purposes of sections 4104 and 1406 of Title 28, the judicial district in which the respondent has his principal office shall in all cases be considered a district in which the action might have been brought.

Concluding that the above quoted section is one of special venue, see *General Electric Credit Corp. v. James Talcott, Inc.*, 271 F. Supp. 699 (S.D. N.Y. 1966), the Court looks to the legislative history in an effort to ascertain whether any particular venue considerations, apart from 28 U.S.C. § 1404, were intended by Congress to attach thereto.

The confusion with respect to this section arises from the words:

> . . . may be brought in any judicial district *in the state* in which the unlawful employment practice is alleged to have been committed. (Emphasis supplied)

If the phrase "in the state" is omitted, the section clearly means that actions shall be brought in the particular district which is the situs of the act complained of. Addition of the phrase "in the state" can result in an interpretation that the action must be brought either (1) anywhere in the appropriate state, or, (2) as if the phrase were omitted, only in the particular judicial district. The latter interpretation treats the phrase "in the state" as surplusage without syntactical effect. General venue considerations would, without more, cause the Court to adopt the latter interpretation and to attribute

the equivocal wording to poor draftsmanship. However, as heretofore noted, this is not a general venue statute and usual venue considerations do not apply, see *SEC v. Wimer*, 75 F. Supp. 955, 963 (W.D. Pal. 1948). Moreover, legislative history shows that the phrase "in the state" was *added* by the Senate to the original House version which omitted it, 110 Cong. Rec. 2511, col. 3; 110 Cong. Rec. 12814, and said addition was reflected in the remarks of Senator Humphrey during floor debate, 110 Cong. Rec. 12723, col. 3. It is apparent, therefore, that the phrase was purposely added and not merely a product of poor draftsmanship. Accordingly, the Court concludes that the phrase must be given full syntactical weight in upholding plaintiffs' contention that the section provides for a forum in any part of the state.

Two other considerations lend weight to his conclusion. First, while the Court finds disturbing the suggestion that litigants may so blatantly engage in forum shopping, it does not seem inconsistent with Congress' militant approach to affording citizens full redress of civil rights grievances to allow plaintiffs a particularly wide latitude in choosing the situs of their litigation. Such latitude affords greater convenience to plaintiffs and enables them to avoid potential local economic and political pressures which might be believed to serve to hinder a trial judge's efforts to maintain an unfettered, impartial atmosphere.

A second consideration is relevant to the litigation herein. The broad latitude given by the statute is particularly engaging when taken in conjunction with class actions. Such actions, which are particularly appropriate and plentiful under Title VII, are often of interstate or intrastate character, stretching in geographical impact beyond the

limits of particular divisions or state districts. In this light, determination of venue merely upon the named litigants would have an arbitrary effect.

Having concluded that venue for the action herein properly lies in this district, the Court now returns to plaintiffs' motion to add parities plaintiff. Defendants, in their pleadings, have upon affidavits questioned the intention of several of the newly named plaintiffs to be included herein. Said affidavits give rise to serious questions of the personal intent of said parties. The Court will therefore conditionally grant the motion to add parties, with leave to those named to withdraw from the action herein.

An appropriate order shall enter.

/s/ ROBERT R. MERHIGE, JR.
United States District Judge

Date: 9-25-72

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

Martha V. Gilbert, et al.,	)	
	)	
Plaintiffs,	)	
	)	Civil Action
v.	)	No. 142-72-R
	)	
General Electric Company,	)	
	)	
Defendant.	)	

MOTION BY DEFENDANT GENERAL ELECTRIC COMPANY FOR DEFINITION OF SIZE OF CLASS, FOR DESIGNATION OF CLASS REPRESENTATIVE, AND FOR ISSUANCE OF NOTICE TO CLASS MEMBERS

[Filed February 23, 1973]

Pursuant to Rule 23 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by its attorneys, respectfully moves this Court for an order defining the size of the class, designating the class representative, and providing for the issuance of notice to class members. In support of this motion, defendant GE states as follows:

I.

1. It is a condition precedent to maintaining a class action against a defendant under Section 706(d) of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e-5(d), and Rule 23 of the Federal Rules of Civil Procedure that

a party plaintiff purporting to be the representative of a class of persons similarly situated must first file a charge against said defendant with the Equal Employment Opportunity Commission.

2. Of all the plaintiffs, purported class members, and female employees of GE referred to in the conditionally amended complaint, only Martha V. Gilbert, Johnnie E. Taylor, Mary R. Williams, and Doris B. Wiley, all of whom are named individual parties plaintiff herein, have, to GE's knowledge, filed charges of discrimination against GE with the Equal Employment Opportunity Commission. Copies of said charges are attached hereto as Exhibit A. (The conditionally amended complaint, *inter alia*, alleges that Sharon E. Godfrey, Barbara Hall, and Alberta Smith, also named individual parties plaintiff, likewise filed charges of discrimination with the Commission against GE.)

3. At all times material, Martha V. Gilbert, Sharon E. Godfrey, Barbara Hall, Alberta B. Smith, Johnnie E. Taylor, Mary R. Williams, and Doris B. Wiley were or have been employed by defendant GE at its Salem, Virginia, plant.

4. At all times material, Martha V. Gilbert, Sharon E. Godfrey, Barbara Hall, Alberta B. Smith, Johnnie E. Taylor, Mary R. Williams, and Doris B. Wiley have been represented for the purposes of collective bargaining by plaintiff International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC (hereafter "plaintiff International Union") and the latter's affiliate, plaintiff Local 161, International Union of Electrical, Radio and Machine Workers, AFL-CIO-CLC (hereafter "plaintiff Local 161"). Plaintiff International Union and plaintiff Local 161 are the collective bargaining representatives of the production and maintenance employees at GE's Salem, Virginia, plant.

5. The issues which can be raised in a class action brought under Section 706(d) of Title VII of the Civil Rights Act of 1964 are confined to those issues presented in charges filed with the Equal Employment Opportunity Commission.

6. All of the aforesaid charges of discrimination raise the same issue involving the denial of insurance benefits to females for absences from employment due to pregnancy or resulting childbirth under non-occupational sickness and accident insurance in effect at GE's Salem, Virginia, plant.

7. Pursuant to a negotiated Pension and Insurance Agreement between GE and plaintiff International Union and its affiliated IUE (AFL-CIO) Locals, the aforesaid non-occupational sickness and accident insurance is in effect at GE's Salem, Virginia, plant, and at all other GE plants where plaintiff International Union and its affiliated Locals have collective bargaining rights. There are approximately 610 female employees at GE's Salem, Virginia, plant who are represented by plaintiff International Union and plaintiff Local 161. Plaintiff International Union and its affiliated IUE (AFL-CIO) Locals represent approximately 20,000 female employees at GE plants and locations throughout the United States.

8. The aforesaid non-occupational sickness and accident insurance also applies to and affects the approximately 65,000 other female employees at GE plants and other locations throughout the United States who are not represented for collective bargaining purposes by plaintiff International Union and its affiliated IUE (AFL-CIO) Locals. Of the latter female employees, approximately 48,000 are unrepresented for collective bargaining purposes, and approximately 17,000 are represented by some 200 International and Local Unions. Non-occupational sickness and accident insurance covering the approximately 17,000 female employees represented for collective bargaining purposes by the latter approximately 200 unions is in effect as the result of negotiated bargaining agreements between GE and such latter unions.

9. Under Section 706(d) of Title VII of the Civil Rights Act of 1964 and Rule 23 of the Federal Rules of Civil Procedure, the size or composition of the class action is defined by the issues which have been presented in charges filed with the Equal Employment Opportunity Commission.

10. Accordingly, for purposes of this action, the class may only be comprised of either:

(a) those similarly situated female employees employed at defendant's Salem, Virginia, plant who, during the period commencing ninety days prior to a date in December 1971 or January 1972 (the earliest date on which any of the charges of discrimination was filed) and ending on the date of the filing of the complaint, were denied non-occupational sickness and accident insurance benefits for absences from employment due to pregnancy or resulting childbirth; or

(b) those similarly situated female employees employed at GE's plants who are represented for purposes of collective bargaining by plaintiff International Union and its affiliated IUE (AFL-CIO) Locals, and who, during the period commencing ninety days prior to a date in December 1971 or January 1972 and ending on the date of the filing

of the complaint, were denied non-occupational sickness and accident insurance benefits for absences from employment due to pregnancy or resulting childbirth.

11. Those allegations in the conditionally amended complaint that purport to establish a larger class must, therefore, be stricken, and the complaint must be dismissed as to that purported larger class.

II

1. As stated, it is a condition precedent to maintaining a class action against a defendant under Section 706(d) of Title VII of the Civil Rights Act of 1964 and Rule 23 of the Federal Rules of Civil Procedure that a party plaintiff purporting to be the representative of a class of persons similarly situated must first file charges against said defendant with the Equal Employment Opportunity Commission.

2. Of all the plaintiffs, female persons, and potential class members referred to in the conditionally amended complaint, Martha V. Gilbert, Sharon E. Godfrey, Barbara Hall, Alberta B. Smith, Johnnie E. Taylor, Mary R. Williams, and Doris B. Wiley are the only named plaintiffs who have filed, or who allegedly have filed, charges of discrimination against GE with the Equal Employment Opportunity Commission. Such named individual plaintiffs are the only plaintiffs, therefore, who may be the representatives of a class of persons similarly situated for the purposes of this action.

3. Accordingly, all parties plaintiff named in the complaint as conditionally amended except for Martha V. Gilbert, Johnnie E. Taylor, Mary R. Williams, and Doris B.

Wiley (and, arguably, Sharon E. Godfrey, Barbara Hall, and Alberta Smith) should be dismissed from this action in their capacity as parties plaintiff for failure to file the requisite charges with the Equal Employment Opportunity Commission, and plaintiffs Gilbert, Taylor, Williams, and Wiley (and, arguably, plaintiffs Godfrey, Hall, and Smith) should, therefore, be designated the *only* representatives of a class of similarly situated female employees of defendant GE for the purposes of this action.

WHEREFORE, defendant General Electric Company respectfully moves the Court for an order:

1. Defining the class of female employees in this action to be either:

(a) those similarly situated female employees employed at defendant's Salem, Virginia, plant who, during the period commencing ninety days prior to a date in December 1971 or January 1972 (the earliest date on which any of the charges of discrimination was filed) and ending on the date of the filing of the complaint, were denied non-occupational sickness and accident insurance benefits for absences from employment due to pregnancy or resulting childbirth; or

(b) those similarly situated female employees employed at GE's plants who are represented for purposes of collective bargaining by plaintiff International Union and its affiliated IUE (AFL-CIO) Locals, and who, during the period commencing ninety days prior to a date in December 1971 or January 1972 and ending on the date of the filing of the complaint, were denied non-occupational

sickness and accident insurance benefits for absences from employment due to pregnancy or resulting childbirth.

2. Designating plaintiffs Martha V. Gilbert, Johnnie E. Taylor, Mary R. Williams, and Doris B. Wiley (and, arguably, plaintiffs Sharon E. Godfrey, Barbara Hall, and Alberta Smith) as the only representatives of a class of similarly situated female employees of defendant GE for the purposes of this action, and dismissing from this action all other parties plaintiff named in the conditionally amended complaint.

3. Requiring plaintiffs Martha V. Gilbert, Johnnie E. Taylor, Mary R. Williams, and Doris B. Wiley (and, arguably, plaintiffs Sharon E. Godfrey, Barbara Hall, and Alberta Smith) to issue notice, in form and in a manner approved by the Court, to members of the class as defined by this Court advising said class members that his action is pending, that said class members may exclude themselves from the class and the effect of this suit by so notifying the Court, and that said class members electing to remain as participants in this action have a right to representation by counsel of their own choice if they so desire.

Respectfully submitted,

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Dated: February 22, 1973.

[Certificate of Service omitted in printing]

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

PLAINTIFFS' MOTION TO ADD PARTIES PLAINTIFF TO COMPLAINT

[Filed April 17, 1973]

Come now plaintiffs in the above entitled action and Carolyn Busby, Martha Cook, Brenda Dillon, Cheryl Freeman, Alvone Gunter, Eleanor Hardesty, Dorothy Hardy, Linda K. Hayles, P.E. Hartless, Anna Hay, Rachel Hill, Jane L. Howk, Barbara Jones, Zanell Jones, Loretta H. Lucado, Zelda Lynch, Helen McClain, Cornelius Molton, Linda Sue Newcomb, Claudia L. Odom, Linda Patimore, Patricia Pruitt, Delora-Lee Ramsey, Kathleen Rozelle, Shelia Singletary, Jeanette Smith, Kathleen Stuteville, Flora Suggett, Linda Terry, Marilyn Thomasson, Barbara Wells and Ula Winter (hereinafter sometimes referred to as "Additional Parties Plaintiffs") and through their undersigned attorneys, move the Court, pursuant to Rules 15 and 21, respectively, of the Federal Rules of Civil Procedure, for an order:

1. That Carolyn Busby, Martha Cook, Brenda Dillon, Cheryl Freeman, Alvone Gunter, Eleanor Hardesty, Dorothy Hardy, Linda K. Hayles, P.E. Hartless, Anna Hay, Rachel Hill, Jane L. Howk, Barbra Jones, Zanell Jones, Loretta H. Lucado, Zelda Lynch, Helen McClain, Cornelius Molton, Linda Sue Newcomb, Claudia L. Odom, Linda Patmore, Patricia Pruitt, Delora-Lee Ramsey, Kathleen Rozelle, Shelia Singletary, Jeanette Smith, Kathleen Stuteville, Flora Suggett, Linda Terry, Marilyn Thomasson, Barbara Wells and Ula Winter be added as Parties Plaintiffs in this action as of the date of the filing of this Motion.

2. That Paragraph 2 of the complaint in the above action be amended by adding thereto the following at the end of the allegations now therein contained:

(a) Each of the individual named plaintiffs, June L. Howk and Kathleen Rozelle is a female and was employed by defendant GE at its Auburn, New York plant at the time she became pregnant, as more fully set forth hereinafter.

(b) The individually named plaintiff Marilyn Thomasson is a female and was employed by defendant GE at its Dekalb, Illinois plant at the time she became pregnant, as more fully set forth hereinafter.

(c) The individually named plaintiff Cornelius Molton is a female and was employed by GE at its Fort Wayne, Indiana plant at the time she became pregnant as more fully set forth hereinafter.

(d) Each of the individually named plaintiffs Martha Cook, Alvone Gunter, Dorothy Hardy, Linda K. Hayles, Rachel Hill, Helen McClain, and Shelia Singletary is a female and was employed by GE at its Memphis, Tennessee plant at the time she became pregnant as more fully set forth hereinafter.

(e) Each of the individually named plaintiffs Patricia Pruitt, Linda Sue Newcomb and Claudia L. Odom is a female and was employed by defendant GE at its Murfreesboro, Tennessee plant at the time she became preggy.

(f) The individually named plaintiff Flora Suggett is a female and was employed by defendant GE at its Newcomerstown, Ohio plant at the time she became pregnant as more fully set forth hereinafter.

(g) The individually named plaintiff Delora-Lee Ramsey is a female and was employed by defendant GE at its Portsmouth, Virginia Plant at the time she became pregnant as more fully set forth hereinafter.

(h) Each of the individually named plaintiffs Brenda Dillon, P.E. Hartless, Barbara Jones, Loretta H. Lucado and Jeanette Smith is a female and was employed by defendant GE at its Salem, Virginia plant at the time she became pregnant as more fully set forth hereinafter.

(i) The individually named plaintiff Barbara Wells is a female and was employed by defendant GE at its Syracuse, New York plant at the time she became pregnant as more fully set forth hereinafter.

(j) Each of the individually named plaintiffs Cheryl Freeman, Eleanor Hardesty, Anny Hay, Zelda Lynch, Linda Patmore, Kathleen Stuteville, Linda Terry and Ula Winter is a female and was employed by defendant GE at its Tell City, Indiana plant at the time she became

pregnant as more fully set forth hereinafter.

(k) Each of the individually named plaintiffs Carolyn Busby and Zanell Jones is a female and was employed by defendant GE at its Tyler, Texas plant at the time she became pregnant as more fully set forth hereinafter.

3. That paragraph 7 of the complaint be amended to add after the word plaintiffs in the 16th line appearing on page 4 the following: and who are employed at Dekalb, Illinois, Memphis, Tennessee, Murfreesboro, Tennessee, Newcomerstown, Ohio and Syracuse, New York.

In support of said motion plaintiffs state:

1. This motion at this time is made necessary by:

(a) The pendency of two complaints against the defendant GE before the State of New York, Executive Department, Division of Human Rights, *Rozelle v. GE,* Case No. CS-28383-72 and *Howk v. GE,* Case No. CS-28809-72, which raise the same legal issue as is presented here, namely, whether the refusal of the defendant GE to pay sickness and accident benefits for periods of absence due to childbirth or other pregnancy-related disability constitutes unlawful discrimination in employment because of sex subjects plaintiffs to the risk of inconsistent decision in another tribunal. Since the complainants before the New York Division of Human Rights have agreed to join as plaintiffs here and be represented by the same attorneys as represent the present plaintiffs and then withdraw their complaints before the New York Division of Human Rights it was decided to file this motion rather than attempt to enjoin continuance of the New York State proceedings. The *Rozelle* and *Howk* cases first came to the attention of the plaintiffs on or about

April 6, 1973 when a member of the staff of the New York Human Rights Division phoned counsel for the plaintiffs because the defendant GE had moved the New York agency to hold the cases in abeyance pending decision in *Gilbert v. GE*, the instant case. The member of the staff of the New York Human Rights Division stated that the New York agency had a policy not to hold cases in abeyance but would postpone hearing until it could be determined if Rozelle and Howk would be willing to join as plaintiffs in the *Gilbert* case and withdraw their New York complaints. Rozelle and Howk have so agreed.

(b) The refusal of counsel for the defendant GE to stipulate facts with respect to any member of the class who is not named as a plaintiff and the assertion of counsel for the defendant GE that it will object at the trial of this case to the receipt of any evidence with respect to the types and kinds of instances in which it has refused to pay sickness and accident benefits on grounds of its pregnancy exclusion by evidence relating to any employee who is not named as a plaintiff, has led counsel for the plaintiffs to decide that the simplest way to avoid this objection and simplify the trial is to move to add as plaintiffs those employees as to whom it has requested the defendant GE to stipulate certain facts but GE has refused solely on the ground such employees are not named as plaintiffs.

(c) The undertaking of counsel for plaintiffs to remove any problems that members of the staff of the Equal Employment Opportunity Commission seem to feel exist by having pending before them charges from members of the class which EEOC records show that the EEOC staff has pending without investigation or efforts at conciliation, by adding as parties plaintiff the employees who have filed EEOC charges raising the issues presented by this case.

2. The filing of this motion at this time should not occasion any delay. The defendant GE has been fully aware of the intention of the plaintiffs to litigate the facts respecting the Additional Parties Plaintiffs and can reasonably be expected to have already collected all relevant facts as to those plaintiffs because:

(a) The proposed Pre-Trial Stipulation of Facts served by plaintiffs on defendant on February 8, 1973 contained the names and some or all of the facts upon which the plaintiff intended to rely with respect to the proposed Additional Parties Plaintiffs Zanell Jones (Proposed Pre-Trial Stipulation of Facts Paras. 19, 37, Cornelius Molton (*id.*, Paras. 19, 37) Carolyn Busby (*id.*, Paras. 20, 29, 37), Shirley Wiseman, Zelda Lynch, Anna Hay, Eleanor Hardesty, Linda Patmore, Linda Terry, Cheryl Freeman, Kathleen Stuteville (*id.*, Paras. 20, 37), Flora Suggett (*id.*, Para. 23), Loretta Lucado, Brenda Dillon, P.E. Hartless, Barbara Jones, Jeanette Smith (*id.*, Para. 37), Linda Sue Newcomb, Claudia Odom, and Patricia Pruitt (*id.*, Para. 37)).

(b) The following Additional Parties Plaintiffs have processed grievances for the claims here involved through Third Step and on the date indicated received a Third Step Answer from defendant GE at its New York headquarters: Barbara Jones (2-6-72), Barbara Wells (12-12-72), Martha Cook (3-9-72), Linda Terry (10-27-72), Linda K. Hayles, (8-17-72), Alvone Gunter (8-27-72), Helen McClain (8-17-72), Shelia Singletary (8-17-72), Rachel Hill (1-9-72), Dorothy Hardy (1-9-72), Ula Winter (10-27-72), Kathleen Stuteville (10-27-72) and Marilyn Thomasson (7-20-72).

(c) The following Additional Parties Plaintiffs have filed EEOC charges against the defendant GE for the claims here asserted: Loretta H. Lucado (EEOC Case No. TDC2-1459), Linda Sue Newcomb (EEOC Case No. TME3-0771),

Claudia L. Odom (EEOC Case No. TME3-0772); Patricia Pruitt (EEOC Case No. TME3-0770); and Flora Suggett, whose EEOC case number has not been supplied to counsel for plaintiffs.

3. All of the Additional Parties Plaintiffs are members of the same class as the original individual named plaintiffs.

4. All of the Additional Parties Plaintiffs were entitled to be paid by the defendant GE and were denied by the defendant GE, weekly non-occupational sickness and accident benefits during periods of disability from pregnancy or childbirth.

5. Each of the Additional Parties Plaintiffs learned of this suit after it was filed and requested that she be added as a party plaintiff to this suit.

6. The Additional Parties Plaintiffs Jane L. Howk and Kathleen Rozelle have pending before the New York State Division of Human Rights complaints docketed respectively as Case No. CS-28809-72 filed in December 1972 and Case No. CS-28383-72 filed October 25, 1972 for failure of defendant GE to pay them sickness and accident benefits for the periods they were absent from work becuase of childbirth and other pregnancy related disability. The New York State Human Rights Division although requested by defendant GE to hold in abeyance ruling on said complaints pending the outcome of this suit has stated to counsel that it is the policy of the New York State Human Rights Division to refuse to defer hearing and decision of cases pending decision of cases before courts or other administrative agencies and that the only way the plaintiffs Howk and Rozelle may avoid decision by the New York Human Rights Division is to withdraw their complaints. Rather than risk inconsistent ruling said plaintiffs have elected to move to

be added as parties plaintiffs herein. If the court grants said motion they will withdraw their state complaints.

/s/ SEYMOUR DuBOW

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April 16, 1973

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND VIRGINIA

[Title omitted in printing]

* * * * *

MOTION BY PLAINTIFFS FOR ORDER
THAT CLASS ACTION MAY BE MAINTAINED,
DEFINING CLASS AND
DESIGNATING REPRESENTATIVE PLAINTIFFS

[Filed April 17, 1973]

Pursuant to Rule 23 of the Federal Rules of Civil Procedure, the plaintiffs by their attorneys, respectfully move this Court for an order:

(a) determining that this suit may be maintained as a class action under Rule 23(b)(1) and (2) of the Federal Rules of Civil Procedure;

(b) determining that with respect to the issue of whether the failure of the defendant GE to pay sickness and accident benefits for periods of absence due to childbirth or other pregnancy-related disabilities violates Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, this suit may be maintained as a class action under Rule 23(b)(1) and (2) on behalf of a class composed of all females who are now or have been employed by the defendant GE on or after September 14, 1971, or who become employed by defendant GE during the pendency of this suit, at any of its plants, offices and shops wherever located, and also all females whose claims or grievances against the defendant GE for sickness or accident benefits for a period of disability due to childbirth or other pregnancy-related disability were filed before September 14, 1971 and were still pending on September 14, 1971 or could still be timely filed on or after September 14, 1971;

(c) determining that with respect to the issue of whether a judgment should be entered against the defendant GE requiring it to make whole employees who suffered losses as a result of the failure of the defendant GE to pay sickness and accident benefits for periods of absence due to childbirth or other pregnancy-related disability this suit may be maintained as a class action under Rule 23(b)(1) and (2) on behalf of a subclass composed of all females who are now or have been employed by the defendant GE on or after September 14, 1971, or who become employed by defendant GE during the pendency of this suit, at any of its plants, offices and shops wherever located and who have been, are or become disabled from work due to childbirth or other pregnancy-related disability on or after September 14, 1971 and also all females whose claims or grievances against the defendant GE for sickness or accident benefits for a period of disability due to childbirth or other pregnancy-related disability were filed before September 14, 1971 and were still pending on September 14, 1971 or could still be timely filed on or after September 14, 1971; and

(d) determining that the individuals who are named as parties plaintiffs in the complaint as amended constitute proper representatives of both the class and the sub-class.

In support of this motion, plaintiffs state as follows:

1. The complaint as amended (Par. 3) alleges, and the answer of defendant GE (First Defense, Par. 3) admits, that the individual named plaintiffs sue individually and on behalf of all present and former female employees of the defendant GE, and that the number of such present and former female employees of defendant GE is in excess of 100,000. The class is thus admittedly so numerous that joinder of all members is impracticable within the meaning of Rule 23(a)(1) of the Federal Rules of Civil Procedure.

2. The Supplemental Answers by the defendant GE to Plaintiffs' Interrogatories Nos. 5 and 45 show that figures are not available for 1972 and 1973 but that the number of employees of the defendant GE who were pregnant in 1970 numbered 3,263 and in 1971 numbered 2,396. The sub-class is thus admittedly so numerous that joinder of all members is impracticable within the meaning of Rule 23(a)(1) of the Federal Rules of Civil Procedure.

3. The complaint as amended (Par. 6) alleges, and the answer of defendant GE (First Defense, Par. 5) admits, that the defendant GE provides weekly non-occupational sickness and accident insurance to all its employees in an amount equal to 60 percent of an employee's normal straight time weekly earnings up to a maximum weekly benefit of $150. The complaint as amended (Par. 8) alleges, and the answer of the defendant GE (First Defense, Par. 7) admits, that the defendant GE at all times has refused to pay weekly sickness and accident insurance bene-

fits to any female for an absence due to disability arising from or related to pregnancy or resulting childbirth. The answer of the defendant GE (Third and Fourth Defenses) alleges that as to each member of the class the refusal of the defendant GE to pay such benefits for periods of absence due to disabilities arising from pregnancy or resulting childbirth was based on the same reasons, namely, the defendant GE's insurance plan does not provide such benefits (Third Defense), the exclusion does not constitute discrimination because of sex (Third Defense) and the defendant GE acted in good faith reliance on written interpretations and opinions of EEOC (Fourth Defense). Thus, admittedly, the action presents questions of law and fact common to all members of both the class and the sub-class within the meaning of Federal Rule of Civil Procedure 23 (a)(2).

4. The complaint as amended (Pars. 2, 7, 8, 11 and 12) alleges, and the answer of the defendant GE (First Defense, Pars. 2, 6, and 7) admits, that one or more of the individual named plaintiffs was employed by defendant GE at each of its plants in Portsmouth, Richmond and Salem, Virginia; Philadelphia, Pennsylvania; Fort Wayne, Indiana; Tell City, Indiana; and Tyler, Texas; that all of the individual named plaintiffs, except one as to whom it has no knowledge of her pregnancy, were pregnant during 1971 or 1972 and lost wages due to absence from work due to pregnancy and resulting childbirth; and that the defendant GE did not pay any of the individual named plaintiffs sickness and accident benefits for the period of such absence from work. The answers of defendant GE to plaintiffs' interrogatories state that complete figures as to the total number of pregnancies among its employees during 1971 and 1972 were not yet available at the time the answers were prepared but that according to statistics compiled by

Metropolitan Life Insurance Company there were during 1971, 5,545 claims for maternity expenses incurred by GE employees (Answer to Interrogatory No. 36). The defendant GE admits that it paid none of these GE employees any sickness or accident benefits for time lost due to pregnancy or resulting childbirth (Answer, First Defense, Par. 7). Thus, the claims of the representative plaintiffs are typical of the claims of all members of both the class and the sub-class within the meaning of Federal Rule of Civil Procedure 23(a)(3).

5. The individual named plaintiffs have diligently and competently pursued all the steps necessary to protect the interests of both the class and the sub-class. The plaintiff Barbara S. Hall filed with the Equal Employment Opportunity Committee on December 13, 1971, a charge alleging that the defendant GE discriminated because of sex in violation of Title VII of the Civil Rights Act of 1964 by failing to provide insurance coverage for time lost due to disability from pregnancy and childbirth equal in amount and duration of benefits to that for time lost due to non-sex related disabilities, which charge was docketed as EEOC Case No. TDC2-0604/YDC2-270, all as more fully appears from a copy of the charge which is attached hereto marked Exhibit A and made a part hereof, and from the letter dated February 23, 1973 addressed To Whom It May Concern, signed by Treadwell O. Phillips, Deputy Director, Washington District Office, EEOC confirming that EEOC received the charge filed by Barbara S. Hall on December 13, 1971, a copy of which letter is attached hereto as Exhibit B and made a part hereof. The record in this case, together with the record in the related mandamus proceedings instituted by the plaintiffs in the United States Court of Appeals for the Fourth Circuit, *Gilbert v. Merhige*, 4th Cir. Case No. 72-1664, establish that the individual named

plaintiffs will fairly and adequately protect the interests of both the class and the sub-class within the meaning of Federal Rule of Civil Procedure 23(a)(4).

6. The prosecution of separate actions by members of the class or the sub-class would create a risk of inconsistent or varying adjudications with respect to individual members of the class or sub-class which would establish incompatible standards of conduct for the defendant GE within the meaning of Federal Rule of Civil Procedure 23(b)(1)(A). The defendant GE apprehended the danger to it of inconsistent or varying adjudications for it has requested the State of New York Executive Department, State Division of Human Rights to hold in abeyance, pending the decision in the instant case, two cases filed under the New York Human Rights Law (Consolidated Laws of New York Executive Law, Article 15, Section 290, *et seq.*) by two females employed by the defendant GE at its plant at Auburn, New York, where the recognized bargaining agent is Local 967, International Association of Machinists, AFL-CIO. The first of these cases, Case No. CS-28383-72, was filed on October 25, 1972 by Kathleen Rozelle and the second, Case No. CS-28809-72, in December 1972 by Jane L. Howk. By letter dated January 2, 1973 to the Regional Director of the New York State Human Rights Division, the defendant GE stated that the issue raised by the complaints in the *Rozelle* and *Howk* cases is being litigated in the United States District Court of Virginia in *Gilbert v. GE* and proposed that the *Rozelle* and *Howk* cases be held in abeyance until the law is settled in this pending litigation. The New York State Human Rights Commission agreed with counsel for GE to defer a hearing until after the scheduled date for the hearing in the instant case in order to determine what disposition might be made in this case. The hearing date in the *Rozelle* and *Howk* cases has accordingly been set for June 5, 1973.

7. The prosecution of separate actions by individual members of the class or sub-class other than the individual named plaintiffs will create a risk of adjudications with respect to individual members of the class or sub-class which would as a practical matter be dispositive of the interests of individual named plaintiffs not parties to the adjudications or substantially impair or impede their ability to protect their interests within the meaning of Federal Rule of Civil Procedure 23(b)(1)(B).

8. The defendant GE has denied the claims of the individual named plaintiffs for sickness and accident benefits for the periods they lost wages due to childbirth or other pregnancy-related disabilities and has denied the claims of all other members of the sub-class upon the same grounds, as is admitted by the answer of the defendant GE (Third and Fourth Defenses), thereby making appropriate final injunctive relief or corresponding declaratory relief with respect to the class and the sub-class as a whole within the meaning of the Federal Rule of Civil Procedure 23(b)(2).

9. The question of whether the defendant GE has discriminated unlawfully because of sex in violation of Title VII of the Civil Rights Act of 1964, by refusing to pay to any employee absent because of a disability arising from pregnancy, miscarriage or childbirth, weekly non-occupational sickness and accident benefits is a question of law and fact common to all members of the class which predominates over any question affecting only individual members of the class and a class action is superior to other available methods for the fair and efficient adjudication of the controversy, within the meaning of Federal Rule of Civil Procedure 23(b)(3).

10. No question not common to all members of the class is presented by the fact that some members of the

class are represented for purposes of collective bargaining by unions other than the plaintiff unions and other members of the class are unorganized. The General Electric Insurance Plan with Comprehensive Medical Expense Benefits, As Amended January 16, 1970 ERB 32D, a copy of which is attached hereto as Exhibit C and made a part hereof, is equally applicable to all members of the class whether they are represented for purposes of collective bargaining by the plaintiff unions, by other unions or no union. In *NLRB v. GE*, 418 F.2d 736, 741, 752 (2d Cir., 1969), cert. denied, 397 U.S. 965 (1970), enforcing, 150 NLRB 192, 209, 237, 258, 271-272, which was litigation to which both the plaintiff International Union and the defendant GE were parties, it was found that defendant GE insisted on a completely uniform insurance plan, and, in order not to have different terms applicable to units represented by different unions or unorganized employees, had refused to bargain with the plaintiff International Union or with any other union with respect to changes in its insurance plan (see especially 150 NLRB at 272, fn. 119). The General Electric Insurance Plan at all times here material has been and today is uniform as to all employees whether represented by the plaintiff unions, other unions or unrepresented. No changes have been made by collective bargaining with any union which have any relevance to any issue involved in this suit.

11. Because of the policy of uniformity upon which the defendant GE has insisted, the plaintiff International Union and the other major unions representing employees of the defendant GE, beginning in 1965 and continuing to date, have established a coordinated bargaining committee whereby all unions, which care to participate, join in formulating the common bargaining demands to be presented to defendant GE and representatives of all the unions serve on the

bargaining committee of each union in dealing with defendant GE as more fully described in *General Electric Co.*, 173 NLRB 253 (1968), enf'd as modified 412 F.2d 512 (2d Cir. 1969). During negotiations between the plaintiff International Union and the defendant GE which preceded that execution of the 1966-1969 National GE-IUE Agreement and the 1970-1973 National GE-IUE Agreement the IUE negotiating committee, which included among its members representatives of other unions, made demands for sickness and accident benefits for disabilities due to childbirth and other pregnancy-related disabilities and such proposal was one of the demands of the plaintiff International Union throughout a 100 day strike which preceded the execution of the 1969-1970 Agreement. The following unions are members of the Coordinated Bargaining Committee of GE-Westinghouse Unions: the plaintiff International Union, the United Automobile Workers (Ind.), the International Brotherhood of Teamsters (Ind.), the United Steelworkers of America, AFL-CIO, the International Association of Machinists, AFL-CIO, the International Brotherhood of Electrical Workers, AFL-CIO, the United Electrical Radio and Machine Workers of America (Ind.), the Allied Industrial Workers, AFL-CIO, the American Federation of Technical Engineers, AFL-CIO, the American Flint Glass Workers, AFL-CIO, the Sheet Metal Workers, AFL-CIO, International Brotherhood of Fireman and Oilers, AFL-CIO, United Brotherhood of Carpenters and Joiners of America, AFL-CIO, and United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry, AFL-CIO. In its allegations that it has collective bargaining agreements with some 200 unions, the defendant GE is counting as a separate union each of the units which are not covered by a national agreement, even though represented by the same International Union. See *General*

Electric Co., 150 NLRB 192, 205, fn. 1. All of the unions affiliated with the Coordinated Bargaining Committee have been kept fully informed of the progress of this suit and one of the bargaining demands for the 1972 negotiations with defendant GE which has been adopted by this Committee is that to the extent that an employee is disabled by pregnancy, childbirth or complications arising therefrom, she shall have the right to the same sickness and accident benefits as any other disabled employee.

12. So far as we have been able to ascertain, there are no members of the class who have indicated any interest in individually controlling the prosecution of separate actions. There are no other law suits pending against defendant GE by other members of the class. In addition to the two complaints filed with the New York State Division of Human Rights by Kathleen Rozelle and Jane L. Howk, described in Par. 6, *supra*, charges have been filed with the EEOC by various other members of the class from both plants represented by the defendant International Union and from unorganized plants, e.g., EEOC Case No. TDC2-1459 filed by Loretta H. Lucado, an employee at the Salem, Virginia plant, a copy of which charge is attached to Motion by General Electric Company to Dismiss Complaint; EEOC Case No. TME3-0772 filed by Claudia L. Odom, an employee at the Murfreesboro, Tennessee plant, an unorganized plant; EEOC Case No. TME3-0770 filed by Patricia Pruitt, an employee at the Murfreesboro, Tennessee plant; EEOC Case No. TME3-0771 filed by Linda Sue Newcomb, an employee at the Murfreesboro plant; EEOC Case No. TDA3-0965 filed by Zanell Jones, an employee at the Tyler, Texas plant which is represented by the plaintiff International Union; and an EEOC case for which a number has not yet been received filed by Flora Suggett, Newcomerstown, Ohio, a plant represented by the

plaintiff International Union. Counsel for plaintiffs have been authorized by such persons to add their names as additional parties plaintiff to this suit and is filing concurrently herewith a motion to add such persons as additional parties plaintiff to this suit. If this Court grants the motion to add Kathleen Rozelle and Jane L. Howk, they will ask leave of the New York State Division of Human Rights to withdraw their complaints there pending. The International Association of Machinists as the collective bargaining agent for Kathleen Rozelle and Jane L. Howk has consented to the addition of Rozelle and Howk as plaintiffs herein and their representation in this suit by counsel for the present plaintiffs.

13. The extent to which any of the claims of members of the class or the sub-class may present questions other than the above described questions common to all members of the class is at present unknown because the defendant GE has not rejected any claim on any basis other than the above described defenses interposed to the claims of all members of the class.

14. The denial of a designation of this suit as a class action or the denial of a designation of the class as embracing all females employed by the defendant GE may result in irreparable loss to the many members of the class who have failed to file charges in reliance upon the pendency of this class suit in the belief that their interests were protected by this suit. The instant suit has been described in publications having nationwide circulation, as a class suit on behalf of all female employees of defendant GE, as for instance in Business Week, March 25, 1972, p. 26, a copy of which is attached hereto marked Exhibit D; and Associated Press news release which appeared in newspapers throughout the United States, including the Richmond, Virginia

Times Dispatch, March 15, 1972, a copy of which is attached hereto marked Exhibit E; The New York Times for March 19, 1972, p. 44, Grand Rapids, Mich. Press, March 16, 1972, Wilmington, Del. Press, March 15, 1972, Cleveland Plain Dealer, Louisville Kentucky Courier Journal, March 17, 1972; an article in the Wall Street Journal, March 16, 1972, p. 10, a copy of which is attached hereto marked Exhibit F. The AFL-CIO News, which is distiributed to members of AFL-CIO unions described this suit in an article carried on April 8, 1972, pp. 1 and 8, a copy of which is attached marked Exhibit G. The Wall Street Journal for December 1, 1972, pp. 1 and 19, a copy of which is attached hereto marked Exhibit H also described this suit. If this Court fails to designate this as a class suit or fails to make the class all inclusive, all females not included in the class whose claims arose more than six months ago and who have not filed charges may be barred by the six months statute of limitations included in Title VII of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000e-5(f)(1).

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Attorneys for Plaintiffs

April 16, 1973

EXHIBIT B.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION
WASHINGTON DISTRICT OFFICE
1717 H Street, N.W.
Washington, D. C. 20006

February 23, 1973

Re: TDC2-0604/YDC2-270

TO WHOM IT MAY CONCERN:

This is to confirm that the Equal Opportunity Commission received a charge of employment discrimination from Barbara S. Hall on December 13, 1971. This charge was filed against General Electric Company located at 1501 Roanoke Boulevard, Salem, Virginia, alleging sex discrimination in benefits and terms and conditions of employment.

/s/ TREADWELL O. PHILLIPS
Treadwell O. Phillips
Deputy Director
Washington District Office

EXHIBIT D.

Business Week, March 25, 1972

Women press for maternity benefits

Is maternity disabling? Depending on what the courts decide, this question could cost General Electric Co.–and hundreds of other companies–millions of dollars in increased insurance premiums. In a class action suit filed last week in U.S. District Court in Richmond, Va., the International Union of Electrical, Radio & Machine Workers charged that GE violated the 1964 Civil Rights Act by not paying disability benefits to women employees suffering from maternity-related ills.

Like GE, many companies do not pay such benefits during job absences stemming from pregnancy or childbirth. Some limit the benefits to shorter periods than for other conditions.

Naming seven women workers in GE's Salem (Va.) plant, the IUE acted on behalf of about 100,000 union and non-union women on GE's payroll in 1971. The union complaint charges that GE pays 26 weeks of disability benefits at 60% of straight-time weekly earnings "for every kind and type of non-occupational sickness and accident which any of its male employees has ever had." Winn Newman, IUE general counsel, argues that GE should do the same for maternity-related problems.
Follow up. To support its case, the union cites a May, 1971, finding of the Equal Employment Opportunity Commission that an employer violated Title VII of the Civil Rights Act by denying "female employees weekly benefits . . . for disability due to pregnancy."

In filing the suit, Newman says, the union is also trying to protect its own interests. Conceivably union members could sue the IUE jointly with GE or with any other company with which it has a similar contract, he says. To head off this possibility, the IUE has urged all its locals to file grievances on the maternity disability issue. One grievance is already on file—at General Motors' Delco Products Div. in Rochester, N.Y. GM pays six weeks of benefits for maternity-related absences, compared with varying, seniority-linked periods for other absences.

GE takes the IUE case seriously. The company paid medical benefits to some 5,000 pregnant women employees in 1971, a GE spokesman says. Assuming an average eligibility of $90 in disability payments, 26 weeks of payments would have cost the insurance company $12.7-million. It also would have cost GE a hefty increase in insurance premiums, the spokesman notes.

EXHIBIT E.

Richmond, Virginia
Times-Dispatch
March 15, 1972.

Seven at Salem File Action Against GE

SALEM (AP) – Seven women members of Salem Local 161. International Union of Electrical Workers, and the entire IUE have filed an action against General Electric Co. for sickness and accident benefits during pregnancy.

The sex-discrimination suit was filed in Wednesday in U.S. District Court for Eastern Virginia in Richmond.

The seven plaintiffs, who said General Electric refused to pay any weekly sickness and accident benefits during their pregnancies last year, said they are suing on behalf of all present and former female employes of General Electric at all its facilities. They seek a class action on behalf of the more than 100,000 women.

Plaintiffs in the suit are Martha V. Gilbert, Sharton E. Godfrey, Barbara Hall. Alberta B. Smith, Johnnie Taylor, Doris B. Wiley and Mary R. Williams.

Defendants in the civil action are General Electric and James Olin, Manager of the drive systems department at the Salem plant.

EXHIBIT F.

Wall Street Journal
March 16, 1972

Female Employes File Discrimination Suit On GE Benefit Policy

Refusal of Sickness Payments For Pregnancy Is Civil Rights Violation, 7 Women, Union Say

Special to The Wall Street Journal

SALEM, Va. – Seven female employes of General Electric Co.'s plant here filed a suit in U.S. district court in Richmond charging that the company refused to pay them

sickness and accident benefits for absences due to pregnancy and childbirth last year.

The suit was brought by the seven women, the International Union of Electrical Workers and its Local 161.

By refusing to pay the benefits, GE discriminated on the basis of sex, in violation of Title 7 of the 1964 Civil Rights Act, the union charged.

Sickness and accident benefits, amounting to 60% of wages, are paid for up to 26 weeks under the union's national contract with GE. In the suit the union said GE has paid male employes these benefits "for every kind and type of sickness and accident. . . ."

The suit asks the court to enter an injunction directing GE to pay the benefits to the seven plaintiffs and to other women employed by GE, damages, court costs and attorney fees.

The union said it represents 90,000 GE workers, at least a third of whom are women.

EXHIBIT G.

AFL-CIO News
April 8, 1972

New Guidelines Tighten Rules On Sex Bias

New guidelines designed to tighten the rules barring job discrimination based on sex have been published by the Equal Employment Opportunities Commission.

The broadened guidelines are advisory and do not have the force of law. They are intended to aid the courts, employers, unions and others on how the EEOC interprets Title VII of the Civil Rights Act of 1964 that bars discrimination based on sex.

The new guidelines hold that hiring policies that exclude women from jobs because of pregnancy violate the law and that health and insurance plan benefits must be extended to women workers disabled by pregnancy, miscarriage, abortion or childbirth.

The EEOC guidelines revised existing directives on women's protective legislation adopted by a number of states, extending to men certain benefits previously limited by the state laws to women. These include minimum wage laws, working age standards, premium overtime, special rest or meal periods and retirement ages.

States that do not bring their laws into conformity with EEOC guidelines may be open to court challenge on the ground that they are in violation of the Civil Rights Act.

The guidelines also are aimed at equalization of fringe benefits including medical, hospital, accident, life insurance and retirement benefits, profit-sharing and bonus plans, leave and other terms, conditions and privileges of employment.

Special attention was directed to distinctions such as "head of household" or "principal wage earner" status which confers greater benefits on men, and pension or retirement plans containing differentials based on sex.

Before publication of the guidelines in the Federal Register, the Electrical, Radio & Machine Workers had

filed suit in U.S. court in Richmond, Va., charging the General Electric Co., with sex discrimination because it refused to pay sickness benefits to seven women at its Salem, Va., plant for absences due to pregnancy and childbirth.

The IUE suit claimed that women workers unable to work because of pregnancy are entitled to the same sickness and accident benefits paid any other worker for non-occupational disability.

The union contended that GE's refusal to pay the benefits is a violation of Title VII of the 1964 Civil Rights Act because this section of the law forbids discriminatory employment practices on the basis of sex.

Sickness and accident benefits amounting to 60 percent of wages—with a maximum of $150 weekly—are paid for up to 26 weeks per disability under IUE's national contract with General Electric.

In its complaint, the union pointed out that GE has paid these benefits to male employes "for every kind and type of sickness and accident . . ." but has refused to pay "any female employe for any absence due to disability arising from, or related to, pregnancy or childbirth."

IUE represents about 90,000 GE workers, and at least one-third of these are women, the union said.

EXHIBIT H.

Wall Street Journal
December 1, 1972

EXPECTANT MOTHERS

Women Employes Seek Disability Coverage During Pregnancy Leave

They Also Push for Improved Insurance, Old Jobs Back; Many Hurdles, Some Gains

'Paternity Leave' for Papas?

By JAMES C. HYATT
Staff Reporter of The Wall Street Journal

Brian Smith doesn's look like the kind of kid to stir up a protest. At age 11 months, he's more engrossed in pulling himself up in his playpen than in pulling down established corporate custom.

But when Brian was born, his mother had to quit work without pay. She lost about $1,000 in wages, and she didn't like it. So 27-year-old Alberta Smith of Roanoke, Va., joined six other women workers and the *International Union of Electrical Workers* to sue General Electric Co. over policies at GE's Salem assembly plant. They charge that the company shows sex bias by refusing disability pay in maternity cases. "If a man hurt his finger, he'd get paid weekly disability benefits," Mrs. Smith complains.

As the challenge to GE indicates, women workers are taking up the cause of "maternity lib." They want to

choose, without interference from the boss, when they'll quit work to have a baby and when they'll return. They want disability pay while unable to work. They seek more generous employer contributions for insurance covering their doctor and hospital bills. And they don't want an argument about getting their old job back when they return to work.

The Pregnant Captain

The battle rages on several fronts:

—In courtrooms, employers including DuPont and National Can Corp. face government lawsuits alleging bias; Du Pont is accused on disability benefits, National Can on leave policies. Federal appeals courts have overturned leave policies in Ohio and Virginia schools, which required women to quit work early in their pregnancies. And an Air Force Captain who became pregnant is asking the Supreme Court to reverse her discharge from the service.

—In union complaints to state and federal anti-bias agencies, such big companies as Westinghouse Electric, AT&T and General Motors are being accused of discrimination; many complaints assert that sick-leave and disability benefits are available to men for almost any reason but that maternity coverage for women is barred.

—In bargaining sessions, unions and women workers are pushing for improved maternity leave, disability pay and other benefits. Under such pressure, Polaroid Corp., IBM and Commins Engine Co. have all recently liberalized policies; among others, Cummins now makes disability payments in maternity cases. And many other firms are reviewing their treatment of pregnant workers.

"Maternity lib" enjoys support from many women's organizations. Groups ranging from the National Organ-

ization for Women (NOW) to the Business and Professional Women's Clubs to a Catholic antiabortion group endorsed broader maternity benefits in a Wisconsin hearing this year.

Much Opposition

But to the amazement of many women, the issue seems to generate much more business opposition than do demands for equal pay and equal job opportunities. "This is the hottest issue confronting personnel men these days," asserts an official of the American Society for Personnel Administration. An actuary for a leading insurance firm adds, "This is a very emotional question."

Just the thought of paying for maternity time-off repels some bosses. "There's a distinct difference between maternity and sickness, although that's almost heresy as far as the Equal Employment Opportunity Commission is concerned," says James W. Hoose, director of industrial relations at Michigan Seamless Tube Co. "To pay a woman a salary during that period, when maternity is a matter of her choice, grates a little bit."

(Mrs. Smith, the GE worker, doesn't agree that maternity is purely a matter of choice. "Nobody is going out having babies to get a couple of pennies," she says. "Even with birth-control pills, women do get pregnant.")

And some employers worry that maternity disability benefits may be abused. They fear that doctors may be overly generous in certifying that a new mother is physically unable to return to work. Or they foresee that women will collect maternity disability checks and then quit work. "I'd imagine a number of employers would be looking closer at hiring women who've gone through the menopause," says one personnel man.

"Temporary Disabilities"

Much of the pressure for change comes from the Equal Employment Opportunity Commission in Washington. This four-man, one-woman commission takes the position that any employment policy ought to apply equally to men and women. To provide for a male leg broken in a skiing accident while ignoring a temporarily disabled pregnant woman is absurd and unfair, according to the EEOC. In guidelines issued last spring, it said pregnancy isn't a valid basis for refusing to hire, for discharging, laying off or denying promotions to women. For job purposes, the commission added, pregnancy, miscarriage, abortion, childbirth and recovery are "temporary disabilities and should be treated as such." The guidelines don't have the force of law, but the Supreme Court has indicated that it gives "great deference" to such administrative interpretations.

For employers, disability payments cause the deepest concern—and greatest potential cost. Companies often pay workers a percentage of their salary—70% is typical—when they're sick or injured and off the job. But most disability plans exclude or limit coverage for maternity. Even a generous plan may provide up to 26 weeks of disability pay for most injuries or illnesses, but only six weeks for maternity.

The cost of maternity disability benefits, of course, depends on the number and age of women workers, the number of babies they have and the length of time that new mothers stay off the job. Adding six weeks of maternity coverage to a typical disability plan costs an extra 10%, according to an official of Martin E. Segal Co., employe-benefit consultants. But one actuary estimates that in a group more than half female, maternity disability

coverage lasting 26 weeks could increase premium 80%.

General Electric estimates that providing up to 26 weeks of maternity disability payments could cost $4 million to $12 million a year, depending on actual usage; the company has more than 100,000 female workers. GE now pays up to 26 weeks of disability benefits at 60% of a worker's wage, up to a maximum of $150 a week, but it excludes maternity.

Teachers' Suits

Perhaps significantly, the lawsuit against GE is pending before U.S. District Judge Robert R. Merhige Jr., who last year ruled that the Chesterfield County, Va., school board couldn't require a teacher to quit after the fifth month of pregnancy; an appeals court upheld his decision. In a similar case this summer, two teachers won an appeals court finding that the Cleveland school system's maternity-leave policy discriminated against women. Pregnant teachers were required to take an unpaid leave five months before the birth of a child, and they couldn't return to work until the first school term after the child was three months old. Both courts said they found no medical justification for the rules.

Outside the courts, equal-rights agencies are seeing an increasing number of maternity-related cases. Leave policies have been attacked in charges filed by the Communications Workers against AT&T, by the *International Union of Electrical Workers* against Westinghouse, and by the United Auto Workers against General Motors, Ford and Chrysler.

Under all this pressure, many employers are softening up on motherhood. A recent Prentice-Hall survey of 108

companies found more than half at least considering new policies as a result of the EEOC guidelines. A 1965 survey had found only one firm in five letting a pregnant employe decide when to quit working; the latest poll found six out of 10 firms leaving the decision to the worker and her physician.

Recently, National Broadcasting Co. dropped a policy requiring a pregnant woman to quit in the seventh month and stay out three months after delivery. "Now she can go to the hospital right from work as long as the doctor approves," a spokesman says. "And if she can return the week after she delivers, terrific."

Disability Benefits

What's more important, more employers are offering disability benefits in maternity cases. Last year Cummins Engine made pregnancy a temporary disability for salaried women, and union contracts negotiated this year have adopted the same change for other women employed by Cummins. The disability payments amount to "a couple of weeks at most in an uncomplicated pregnancy," an official says.

Just recently, the Arma division of Ambac Industries Inc. in Garden City, N.Y., proposed changing union contracts to include up to 26 weeks of maternity disability benefits. "We know the requirements relating to women are becoming more strict," says Mel Stebbins, manager of employe relations.

Such changes won't be enough to satisfy all the "maternity lib" demands. Pressure is expected, too, for bolder innovations, such as expansion of employer-paid hospital insurance to include maternity care for unmarried women.

The EEOC guidelines have weakened corporate resistance to this step. In August, Blue Cross of Northeast Ohio offered holders of group policies a rider for single-person maternity coverage. "A dozen groups have enrolled," an official reports. "Companies think they're going to be under the gun eventually, and they're getting an early jump."

Other possible pattern-setters can be glimpsed now. The Delevan division of American Precision Industries, in East Aurora, N.Y., last December negotiated a liberalized leave policy for mothers of newly adopted children. The policy permits a six-months leave, without pay and without loss of seniority, when a child is adopted; previously, only a one-month leave was permitted.

And in current contract talks between the professional staff and City University of New York, the university has proposed formal leave policies for faculty members that could include paid "paternity leave" for new papas needed at home.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

ORDER
[Filed April 30, 1973]

In accordance with the memorandum this day filed, and deeming proper so to do, it is adjudged and ordered that:

1. Plaintiffs' motion to dismiss the counterclaim be, and the same is hereby, denied.

2. This action is declared a class action pursuant to Rule 23 (b)(1) and (2), F.R.C.P. The members of the plaintiff class are as follows:

(a) With respect to the issue of whether the failure of the defendant GE to pay sickness and accident benefits for periods of absence due to childbirth or other pregnancy related disabilities violates Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. 2000e, this suit may be maintained as a class action under Rule 23 (b)(1) and (2) on behalf of a class composed of all females who are now or have been employed by the defendant GE on or after September 14, 1971, or who become employed by defendant GE during the pendency of this suit, at any of its plants, offices and shops whereever located, and also all females

whose claims or grievances against the defendant GE for sickness or accident benefits for a period of disability due to childbirth or other pregnancy-related disability were filed before September 14, 1971 and were still pending on September 14, 1971 or could still be timely filed on or after September 14, 1971;

(b) With respect to the issue of whether a judgment should be entered against the defendant GE requiring it to make whole employees who suffered losses as a result of the failure of the defendant GE to pay sickness and accident benefits for periods of absence due to childbirth or other pregnancy-related disability this suit may be maintained as a class action under Rule 23 (b)(1) and (2) on behalf of a subclass composed of all females who are now or have been employed by the defendant GE on or after September 14, 1971, or who become employed by defendant GE during the pendency of this suit, at any of its plants, offices and shops wherever located and who have been, are or become disabled from work due to childbirth or other pregnancy-related disability on or after September 14, 1971 and also all females whose claims or grievances against the defendant GE for sickness or accident benefits for a period of disability due to childbirth or other pregnancy-related disability were filed before September 14, 1971 and were still pending on September 14, 1971 or could

still be timely filed on or after September 14, 1971.

3. The following are designated as the representatives of the class: Martha V. Gilbert, Sharon Godfrey, Barbara Hall, Alberta B. Smith, Johnnie Taylor, Doris B. Wiley and Mary R. Williams.

4. Counsel are directed to appear before the Court on May 3, 1973 at 9:00 a.m. for the purpose of insuring that appropriate actions are taken to give notice to the plaintiff class of the pending of this action.

5. Plaintiff's motion to add parties plaintiff shall be, and the same is hereby, denied.

Let the Clerk send copies of this order and the memorandum to counsel of record.

/s/ Robert N. Merhige, Jr.
United States District Judge

Date: April 30, 1973.

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

[Filed April 30, 1973]

MEMORANDUM

Plaintiff female employees of defendant General Electric Company (GE) seek class relief from alleged sex employment discrimination practices by the defendant in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000(e). The employment practice complained of is GE's denial of sickness and disability benefits to employees absent because of pregnancy. The history of this litigation, which does not appear to be as complex as might be inferred from the amount of pleadings and other documents contained in the file, has been recited in previous memoranda of the Court and need not be repeated here. See memoranda of September 25, 1972, 347 F. Supp. 1058, and February 6, 1973. The parties are again before the Court prior to trial pursuant to three motions:

1) Plaintiffs' motion to dismiss GE's counterclaim.

2) GE's motion for definition of size of class, designation of class representatives and issuance of notice to class members.

3) Plaintiff's motion to add parties plaintiff.

Counsel have briefed their respective positions, and it is upon the memoranda and records before it that the Court

finds these matters ready for disposition. The motions and issues raised with respect to each shall be considered in turn.

I. Motion to Dismiss the Counterclaim

GE's counterclaim reads as follows:

> 1. The non-occupational sickness and accident insurance referred to in the complaint is made applicable and available to GE employees within the collective bargaining units represented by plaintiff International Union and its affiliated IUE (AFL-CIO) Locals[1] pursuant to, and solely as the result of, a negotiated Pension and Insurance Agreement between GE and plaintiff International Union and its affiliated IUE (AFL-CIO) Locals, including plaintiff Local 161, which was signed February 4, 1970, and by its terms is effective until May 26, 1973. Such Pension and Insurance Agreement provides that non-occupational sickness and accident benefit payments are not payable for any absence due to pregnancy or childbirth or to complications in connection therewith.
>
> 2. GE's failure to pay non-occupational sickness and accident benefits to GE employees within collective bargaining units represented by plaintiff International Union and plaintiff Local 161 for absences due to pregnancy or childbirth or to complications in connection therewith, has been in

[1] The named plaintiffs to this action include the International Union of Electrical, Radio and Machine Workers, AFL-CIO and Local 161 of said union.

> accordance with the terms and provisions of the aforesaid Pension and Insurance Agreement. If such failure by GE is unlawful, complete and appropriate relief therefore under Section 706(g) of Title VII of the Civil Rights Act of 1964 as amended, can be obtained only if directed against plaintiff labor organizations as well as GE.
>
> 3. In the event that GE is held to be liable in damages or otherwise for acts or omissions alleged in the complaint and effected pursuant to and in accordance with the aforesaid Pension and Insurance Agreement signed on February 4, 1970, GE asserts a right of contribution from, and indemnification by, plaintiff International Union and plaintiff Local 161 in respect to any such liability.

The Union's first asserted ground in support of its motion is the failure of GE to allege that the unions have engaged in any unlawful employment practice or caused GE to do so. The unions argue that said failure is fatal to the counterclaim because:

> If any right of contribution or indemnification against a counterdefendant ever exists under Title VII, it must obviously be based on some finding that there was either a violation of Title VII by the counterdefendant or that the counterdefendant could or attempted to cause the counterplaintiff to commit an unlawful employment practice.

The unions further urge that being a signatory to a collective bargaining agreement which contains a discriminatory provision is not violation of Title VII and that further,

the unions have labored since February, 1972 to alter the contract provisions in question when the law on this matter "became clear."

GE disputes that the unions made a good faith effort to alter the pregnancy benefit portions of the contracts in question and cite case law in support of its position that being a signatory to a contract with discriminatory provisions may render a union liable on counterclaims for contribution by a defendant employer.

Blanton v. Southern Bell Telephone & Telegraph Company, 49 FRD 162 (N.D. Ga. 1970), cited by GE, is a well-reasoned decision closely on point. Plaintiffs in *Blanton* included female employees, who alleged employment discrimination on the basis of sex, and the union to which they belonged. Southern Bell filed a counterclaim against the union alleging that challenged provisions in the employment contract evolved from free and open bargaining sessions between the union and Southern Bell and that therefore, if any said provisions were found illegally discriminatory then the union was equally responsible. That shared responsibility was urged as the basis for a claim for contribution in case plaintiffs were to recover. The union, as here, moved to dismiss on the ground that the counterclaim was jurisdictionally defective by virtue of Southern Bell's failure to raise same before the EEOC pursuant to 42 U.S.C. § 2000(e)-5(e). The *Blanton* court dismissed this contention finding that the counterclaim "appears to be in the nature of a claim against a joint tortfeasor rather than a claim under the Civil Rights Act." 49 FRD at 163. Though doubting the ultimate viability of the counterclaim, the court concluded that for purpose of Rule 13, F.R.C.P., a proper counterclaim was stated. See also, *Osborne v. McCall Printing Co.*, 4 FEP Cases 276 (S.D. Ohio 1972).

It is conceivable, of course, that a counterclaim may be brought either under theories of tort law or Title VII or both. While the court does not embrace the seemingly restrictive view of *Blanton*, it does concur that a claim in tort is colorable.

This view, that a union freely a party to a negotiated contract with illegal provisions may potentially be held liable as a joint tortfeaser upon a counterclaim, is tacitly acceptable as well by the District Court in *Bowe v. Colgate-Palmolive Co.*, 272 F. Supp. 332, 358 (S.D. Ind. 1967), *mod on other grounds*, 416 F.2d 711, 719 (7th Cir. 1969).[2] *Bowe*, however, adds that a change in the law, occurring after the date of the contract signing, which renders portions of the contract illegal will free a union from liability if efforts were made by the union to alter the effect or stop the implementation of the challenged provisions from the time the law became clear. See also, EEOC Dec. No. 70-112, 2EPG ¶6108 (9-5-69).

Against these principles of law, which the Court for these purposes adopts as appropriate interpretations, the respective parties here have set forth conflicting factual allegations. The plaintiff unions allege that 1) the contract provisions complained of were not the result of free negotiations,[3] 2) since the issuance of EEOC Decision No. 71-1471, 3 EPG Par. 6221, 3FEP Cases 588 (3/19/71) holding

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[2] On appeal, the United States Court of Appeals for the Seventh Circuit viewed the claim against the union as one brought under Title VII. Because Title VII procedures were not complied with, the Court of Appeals affirmed the District Court's dismissal of the claim.

[3] The decision in support of this allegation cited coercive bargaining techniques utilized by GE and reprimanded in NLRB Proceedings

(continued)

that disparate treatment of pregnancy related inabilities constituted sex discrimination, the unions have consistently sought to recover sickness and accident benefits for pregnant employees. GE denies both allegations, citing particularly "real" negotiations in 1969-70 for the 1970-1973GE-IUE Pension and Insurance Agreement. GE further avers that it was under no obligation to respond to a February, 1972 union proposal to change the disputed provisions by virtue of Section 8(d) of the National Labor Relations Act, as amended 29 U.S.C. § 158(d), which provides that neither party need discuss or agree to contract modifications to become effective before the contract terms or questions can be reopened under the contract.

The proper issue, in the Court's view, is whether or not the union sought to gain for its members relief from the disputed pregnancy benefits clauses at the time the law became clear. *Bowe, supra.* In so stating, the Court is aware that the law under Title VII has been quickly evolving. To gain ultimate recovery under a theory of Tort liability, it would appear that the union need show that at the time of the 1970 negotiations the union was aware that the disputed contract provisions were illegal but freely agreed to them. This showing, in turn, would necessitate proof by GE that:

1) The terms are in fact illegal.

2) The terms were illegal in 1970, or that the unions did not act to alter or prevent their implementation at the time knowledge of their illegality was acquired.

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3 (continued) in Gen. Electric Company, 150 NLRB 192, 207, 209, 237, 258, 271 (1963-69), enforced NLRB v. Gen. Elec., 418 F.2d 736 (2nd Cir. 1969).

3) The above malfeasance, if existent, states a claim for which relief can be granted.[4]

Though these factual issues may well be determinable upon the voluminous record before it, the Court, at this late stage, choses not to exercise its discretion under Rule 12(c), FRCP, to construe the present motion to dismiss as a motion for judgment on the pleadings and to search the record thereby to determine these issues. The Court is hopeful, however, that evidence at trial will be offered in a manner consistent with these views.

The union's further grounds in support of its motion to dismiss the counterclaim have been dealt with, *inter alia,* in the foregoing discussion. The second ground asserts that the counterclaim does not state a course of action for which relief may be granted. In view of *Blanton, supra,* and *Bowe, supra,* the court is disinclined to accept this view but reserves its ultimate decision pending appropriate memoranda or argument at trial.[5]

The third ground asserted is that a claim for contribution is not ripe at this stage and therefore not presently justiciable. This Court has previously rejected this reasoning in connection with a third party claim, ruling that a claim for contribution is "ripe" and permissible under Rule

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4 The union urges that no such claim exists under federal common law. Without prejudging the matter, said claim amy exist under state law, over which the Court may chose to take pendent jurisdiction, or in fact in federal law, over which the Court may chose to take ancillary jurisdiction.

5 With time short before trial of this action, the Court will not now direct memoranda on this issue.

14, F.R.C.P. *Bell v. Federal Reserve Board,* __F. Supp. __, CA 51C-72-R (E.D. Va. 1972). That rationale is applicable here: The liberal spirit of the Federal Rules mandate avoidance of duplicative litigation. The Court will therefore allow GE to maintain its counterclaim in tort pursuant to Rule 13, F.R.C.P.

The final grounds asserted essentially aver that the counterclaim is jurisdictionally barred by the absence of proper EEOC proceedings against the unions pursuant to 42 U.S.C. §§ 2000e-5(e) and 5(f)(1). These contentions are well taken. *Bowe v. Colgate-Palmolive Co.*, 416 F.2d 711, 719 (7th Cir. 1969). GE may maintain this counterclaim upon the theory of Title VII violations.

The Court will, however, allow GE to pursue its claim under a theory of tort liability conditioned on a proper showing in accordance with the aforementioned principles. At this stage, therefore, the union's motion to dismiss the counterclaim shall be denied.

II. Motions with Respect to Class

General Electric moves for an order defining plaintiff class as consisting of either:

> (a) those similarly situated female employees employed at defendant's Salem, Virginia plant who, during the period commencing ninety days prior to a date in December 1971 or January 1972 (the earliest date on which any of the charges of discrimination was filed) and ending on the date of the filing of the complaint, were denied non-occupational sickness and accident insurance benefits for absences from employment due to pregnancy or resulting childbirth; or

> (b) those similarly situated female employees employed at GE's plants who are represented for purposes of collective bargaining by plaintiff International Union and its affiliated IUE (AFL-CIO) Locals, and who, during the period commencing ninety days prior to a date in December 1971 or January 1972 and ending on the date of the filing of the complaint, were denied non-occupational sickness and accident insurance benefits for absences from employment due to pregnancy or resulting childbirth.

Plaintiffs, on the other hand, pray for a two part class definition with respect to declaratory relief, a class is sought to include:

> "All females who are now or have been employed by the defendant GE on or after September 14, 1971, or who became employed by defendant GE during the pendency of this suit, at any of its plants, offices and shops wherever located and also all females whose claims or grievances against the defendant GE for sickness or accident benefits for a period of disability due to childbirth or other pregnancy related disability were filed before September 17, 1971 and were still pending on September 14, 1971 or could still be timely filed on or after September 19, 1971.

With respect to monetary relief, a sub-class is sought to include all those in the above class who become disabled from work by reason of pregnancy or who filed claims with respect to pregnancy with GE. The first class would member approximately 100,000 employees, the sub-class, 5659 employees.

The Court has little difficulty with this issue, concluding that plaintiffs' position is well-taken.

The four requisites set out in Rule 23(a), F.R.C.P., require 1) that the class be so numerous that joinder of all members is impractical. Since GE allegedly has 100,000 female employees, the number of women workers with a stake in the outcome of this litigation is obviously large enough to meet this criterion; 2) that there are questions of law or fact common to the class. All GE employees, whether represented by unions or not, are covered by the General Electric Insurance Plan with Comprehensive Medical Expense Benefits, as amended January 16, 1970. The pregnancy benefit exclusion applies equally to all women employees. Further, because GE insists upon a uniform policy, the major unions representing GE workers have since 1965 established a coordinated bargaining committee whereby those unions choosing to participate formulate common demands in this regard. It is therefore clear that questions of law and fact raised here by the named plaintiffs are common to the entire class. By virtue of these facts, it is likewise clear that the third condition, that 3) the claims or defenses of the representative parties are typical of the claims or defenses of the class. Finally, the Court is satisfied that 4) the parties will fairly and adequately protect the interest of the class. In short, it would be difficult to conceive of a class more appropriate under Rule 23 than that proposed by plaintiffs. These considerations apply as well to the sub-class seeking monetary relief. Plaintiffs assert that the class should accrue from September 14, 1971. GE proffers that the proper date should be measured at 90 days prior to the earliest date of filing of charges with the EEOC by a class representative. *Diaz v. Pan American World Airways,* 346 F. Supp. 1301 (S.D. Fla. 1972). Plaintiff Barbara Hall filed with the EEOC on December 13, 1971.

Plaintiffs proffered accrual date of September 14, 1971 is therefore in accord with defendants position and the law on the subject and will be adopted by the Court.

As a final matter, the Court will designate the original named personal plaintiffs, excluding the unions and named plaintiffs to the amended complaint, as the class representatives.

Because of the preceding adjudication with respect to the class, addition of further named plaintiffs to this action is unnecessary. Plaintiff's motion in this regard shall be denied.

An appropriate order shall enter. It will, *inter alia,* direct that counsel meet to confer with the Court to establish appropriate procedures for providing notice to the class pursuant to Rule 23(d)(2).

/s/ ROBERT A. MERHIGE
Robert A. Merhige
United States District Judge

April 30, 1973

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

[Lodged with the clerk, May 9, 1973; filed May 15, 1973]

MOTION TO BRING IN THIRD-PARTY DEFENDANTS

Defendant, General Electric Company, by counsel, moves this court for leave to file a third-party complaint on International Union of Electrical, Radio and Machine Workers, United Electrical, Radio and Machine Workers of America, Local 124, International Association of Machinists, Local 10, International Union of Electrical, Radio and Machine Workers, Local 161, and All Other International and Local Unions Representing Present and Former Female Employees of the Defendant, which Unions are Signatory to Collective Bargaining Agreements with the Defendant, based upon the attached affidavit, Exhibit A. A copy of the third-party complaint is attached hereto as Exhibit B.

GENERAL ELECTRIC COMPANY

By /s/ JOHN S. BATTLE, JR.
John S. Battle, Jr.
Of Counsel

John S. Battle, Jr.
McGUIRE, WOODS & BATTLE
1400 Ross Building
Richmond, Va. 23219

[Certificate of service omitted in printing]

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

AFFIDAVIT OF THOMAS F. HILBERT, JR.

DISTRICT OF COLUMBIA :
CITY OF WASHINGTON : SS

Thomas F. Hilbert, Jr., being duly sworn says:

(1) I am Thomas F. Hilbert, Jr. and have been an Attorney with General Electric Company since 1950; since 1960 I have been Labor Relations Counsel for that Company with an office at 570 Lexington Avenue, New York, City.

(2) I am making this affidavit in support of defendant's motion for leave to file a third party class action against unions with whom General Electric Company has signed collective bargaining agreements.

(3) The NLRB has over the past years certified a number of unions as collective bargaining representatives of various units of General Electric Company employees.

(4) Many of such certifications have been issued to IUE and various IUE locals who are currently involved in this lawsuit.

(5) Certifications have also been issued to other international unions and their locals, notably United Electrical Radio & Machine Workers of America, United Automobile

Workers of America, International Association of Machinists, International Brotherhood of Teamsters, International Brotherhood of Electrical Workers, United Steelworkers of America, Allied Industrial Workers, American Federation of Technical Engineers, Sheet Metal Workers, United Plate Glass Workers of America, American Flint Glass Workers of America, International Union of Plant Protection Employees, Machinists Educational Society of America, as well as three independent unions, Syracuse Draftsmen Association, Independent Association of Technical & Clerical Personnel, and Association of Engineering and Laboratory Assistants. A complete list of such unions, the assigned locals and their work locations and employment figures is attached hereto as Attachment A.

(6) Following NLRB certifications of such unions, the Company has bargained collectively with them and has reached and signed agreements as a result of such bargaining. In all such instances, except IUE and UE units, local company management at the plant or other work location for which the union was certified, has negotiated on a local basis with the certified union, and has signed a collective agreement limited to the specific bargaining unit certified at that location. In the case of UE, the Company has negotiated a series of multi-unit contracts, covering all the separate UE locals certified at GE locations. (The current GE-UE National Agreement is attached hereto as Attachment B.)

(7) The latest such agreements were negotiated with and signed by unions and locals in late 1969 and early 1970, and will terminate on or about May 26, 1973. Such agreements contain insurance provisions granting weekly sickness and accident benefits similar to those contained in the 1970 GE-IUE Pension and Insurance Agreement. As in the IUE agreement, the other union agreements do not provide weekly payment for absences due to pregnancy.

(8) Prior to the expiration of these contracts, GE cannot alter the terms of the collective bargaining contract without the consent of the signatory unions.

(9) After the expiration fo the contracts, GE must bargain to an impasse with the unions representing its employees before making any unilateral changes in the terms and conditions of employment.

/s/ THOMAS F. HILBERT, JR.
Thomas F. Hilbert, Jr.

[Jurat omitted in printing]

GENERAL ELECTRIC COMPANY

Location	Union	Local	Number in Unit Total	Number in Unit Women	Termination Date of Contract *
Albuquerque, N.M.	IAM	794	804	24	
Auburn, N.Y.	IAM	967	885	718	
Bellevue, Ohio	IAM	2159	549	449	
Bloomington, Ill.	IAM	1000	775	384	6/24/73
Bucyrus, Ohio - Glass Plant	IAM	2165	55	4	
Chicago, Ill. - Serv. Shop	IAM	8	121	9	
Danville, Ill.	(IAM	2076	997	765	
	(IAM	710C	30	1	
Evendale, Ohio	IAM	912	1220	101	
Fort Wayne, Ind.	IAM	70	610	1	6/16/73
Louisville, Ky.	IAM	2409	329	1	
Milwaukee, Wisc. - Medical Sys.	IAM	1916	1411	311	
Richmond, Va. - Serv. Shop	IAM	10	49	1	
Rockford, Ill.	IAM	1553	281	183	
Salt Lake City, Utah - Serv. Shop	IAM	1525	77	3	
San Jose, Calif. - Atomic Power Plant	IAM	93	440	132	

* Termination date May 26, 1973 unless otherwise noted.

Location	Union	Local	Number in Unit Total	Number in Unit Women	Termination Date of Contract *
South Portland, Me.	IAM	2139	466	1	
Utica, N.Y. - French Rd. Plant	(IAM	1669	1139	519	6/17/73
	(IAM	784	135	8	6/10/73
Utica, N.Y. - Receiver Plant	IAM	558	186	62	6/9/73
York, Pa. -	IAM	D-98	21	1	
Avon, Ohio	IBEW	2283	44	18	6/30/73
Baltimore, Md. - Serv. Shop	IBEW	1805	61	1	
Birmington, Ala. - Serv. Shop	IBEW	1871	20	111	
Bloomington, Ind.	IBEW	2249	1314	501	
Blue Ash, Ohio	IBEW	1198	230	2	
Buffalo, N.Y. Serv. Shop	IBEW	1813	54	2	
Chamblee, Ga. - Serv. Shop	IBEW	613	116	15	6/10/73
Chicago/Cicero, ILL.	IBEW	134	59	1	
Cleveland, Ohio – Euclid Lamp	IBEW	1377	1007	812	
Gainesville, Fla.	IBEW	2156	9911	821	

* Termination date May 26, 1973 unless otherwise noted.

Location	Union	Local	Number in Unit Total	Number in Unit Women	Termination Date of Contract
Houston, TX- Serv. Shop	IBEW	716	84	3	
Jackson, Miss.-Glass Plant	IBEW	1493	53	1	
Jackson, Miss.-Lamp Plant	IBEW	1435	322	207	
Lexington, Ky.-Lamp Works	IBEW	183	291	220	
Lexington, Ky.-Glass Wks.	IBEW	183	73	24	
Medford, Mass.-Svc. Shop	IBEW	1014	78	6	
New Concord, Ohio -DFSD	IBEW	2111	207	60	
North Bergen, N.J. - Svc. Shop	IBEW	3	167	7	
North Hollywood, Calif.	IBEW	1710	95	14	
Portland, Ore.-Svc. Shop	IBEW	49	44	2	
San Leandro, Calif.	IBEW	2131	95	5	
Seattle, Wash.	IBEW	46	35	1	
Toledo, Ohio - Svc. Shop	IBEW	1076	25	2	
Tucson, Ariz.	IBEW	1116	66	39	
Van Nuys, Calif.	IBEW	1710	46	23	7/15/73
Oklahoma City, GESCO	IBEW	1411	14	4	

Location	Union	Local	Number in Unit Total	Number in Unit Women	Termination Date of Contract*
Detroit, Mich.	UAW	771	874	63	
Edmore, Mich.	UAW	1436	471	88	6/23/73
Evendale, Ohio	UAW	647	3764	316	
Fort Smith, Ark.	UAW	716	53	9	6/11/73
Milwaukee, Wisc.- Hotpoint	UAW	261	634	91	
Paterson/Fairlawn, N.J.	UAW	191	310	29	
Shelbyville, Ind.	UAW	–	593	232	
Omaha, Neb.	IBT	554	9	6	
Erie, Pa.	AFTE	138	247	17	7/1/73
Hudson Falls/Ft. Edward, N.Y.	AFTE	143	10	1	
Lynn River Works	AFTE	142	410	20	
Philadelphia, Pa.	AFTE	13	288	44	
Pittsfield, Mass.	AFTE	140	366	27	
Schenectady, N.Y. (Commercial)	AFTE	147	769	83	6/3/73
Schenectady, N.Y. (KAPL)	AFTE	147	102	6	6/3/73
West Lynn & Wilmington, Mass.	AFTE	142	66	2	

* Termination date May 26, 1973 unless otherwise noted.

Location	Union	Local	Number in Unit Total	Number in Unit Women	Termination Date of Contract*
Chamblee, Ga.	IATCP	–	65	25	
Chicago/ Cicero, Ill.	SMW	571	3786	594	
Seattle, Wash.	SMW	383	34	7	
Cleveland, Ohio - Lamp Div.	UPGWA	675	75	1	
Decatur, Ill.	AIW	955	1548	1243	
Owensboro, Ky.	AIW	783	2723	2199	8/19/73
Logan, Ohio	AFGW	1017	148	17	
Syracuse, N.Y.	IUPPE	5	64	3	
Philadelphia, Pa.	AEEA	–	68	4	
Syracuse, N.Y.	Draftsmen (Ind.)	–	146	13	
Tiffin, Ohio	MESA	55	6	3	
Coshocton	USW	4377	775	63	

* Termination date May 26, 1973 unless otherwise noted.

PREAMBLE

This Agreement (referred to as the 1970-1973 GE-UE National Agrement) which succeeds prior Agreements (first effective the 2nd day of April, 1956 and modified as of October 24, 1960, September 6, 1963 and October 3, 1966) is entered into as of January 26, 1970 by and between the GENERAL ELECTRIC COMPANY (hereinafter referred to as the "Company") and the UNITED ELECTRICAL, RADIO AND MACHINE WORKERS OF AMERICA (UE) (hereinafter referred to as the "Union"), acting for itself and on behalf of its below-listed affiliated UE Locals, currently certified as collective bargaining representatives of Company employees, which ratifiy this Agreement as set forth herein and such other UE Locals as may hereafter be certified as collective bargaining representatives of Company employees (each referred to individually as the "Local").

The currently certified UE Locals are bargaining units covered by this Agreement are as follows:

Local 120, Baltimore, Md. (Locke)
Local 124, Waynesboro, Va.
Local 128, Allentown, Pa.
Local 205, Ashland, Mass.
Local 211, Bridgeport, Conn. (Powerhouse)
Local 297, Lowell, Mass.
Local 310, Elmira, N.Y.
Local 327, Johnson City, N.Y.
Local 332, Fort Edward and Hudson Falls, N.Y.
Local 334, Rochester, N.Y. (DFSD)
Local 506, Erie, Pa.
Local 618, Erie, Pa.
Local 506, Erie, Pa. (Reconditioning Shop)

Local 618, Erie, Pa. (Reconditioning Shop)
Local 703, Akron, Ohio (Service Center)
Local 707, Cleveland, Ohio (DFSD)
Local 707, Cleveland, Ohio (DFSD–Great Lakes District)
Local 731, Conneaut, Ohio
Local 751, Niles, Ohio (Glass Plant)
Local 751, Niles, Ohio (Mahoning Glass)
Local 769, Indianapolis, Ind. (Service Shop)
Local 924, Decatur, Ind.
Local 947, Detroit, Mich. (Service Shop)
Local 947, Flint, Mich. (Service Shop)
Local 1010, Ontario, Calif. (Aircraft Service Shop, Los Angeles)
Local 1012, Ontario, Calif. (Appliance)
Local 1412, Oakland, Calif. (Transformer)
Local 1412, Oakland, Calif. (Service Shop)
Local 1412, San Francisco, Calif. (Service Center)
Local 1421, Los Angeles, Calif. (Service Shop)

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

MOTION TO BRING IN ADDITIONAL DEFENDANTS, OR, IN THE ALTERNATIVE TO DISMISS THE COMPLAINT
(Filed May 8, 1973)

Comes now the defendant, General Electric Company, by counsel, pursuant to Rules 19 and 21 of the Federal Rules of Civil Procedure and moves the court for an order compelling the joinder as indispensable defendants of all international and local unions representing present and former female employees of the defendant, which unions are signatory to collective bargaining agreements with the defendant.

In the alternative, the defendant moves to dismiss the claims of the plaintiffs and plaintiff class for failure to join these indispensable party defendants.

GENERAL ELECTRIC COMPANY

By /s/ JOHN S. BATTLE, JR.
Of Counsel

John S. Battle, Jr.
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1400 Ross Building
Richmond, Va. 23219

[Certificate of service omitted in printing]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND VIRGINIA

[Title omitted in printing]

* * * * *

OPPOSITION OF PLAINTIFFS TO MOTION OF DEFENDANT GENERAL ELECTRIC COMPANY TO BRING IN ADDITIONAL DEFENDANTS, OR, IN THE ALTERNATIVE TO DISMISS THE COMPLAINT

(Filed May 11, 1973)

The plaintiffs oppose the motion of the defendant General Electric Company to bring in additional defendants, or, in the alternative to dismiss the complaint, and as grounds for such opposition state:

1. There are no persons or organizations not named as parties to this suit whose absence will prevent the Court from affording full relief to persons already party to the suit.

2. There is no person or organization not named as a party to this suit who claims any interest in the subject matter of this suit and who is so situated that his absence will impair or impede his ability to protect all his interests or leave the defendant GE subject to any risk of double, multiple or otherwise inconsistent obligations by reason of his claimed interest.

3. There is no union which would be adversely affected if the relief requested by the plaintiffs herein is granted. The other major unions which represent employees of the defendant GE are at the present time seeking from the defendant GE contractual provisions

which would obligate the defendant GE to pay to females for absences because of a disability due to pregnancy or resulting childbirth or to complications in connection therewith. A copy of the Statement of Policy on the Basic Bargaining Goals of GE-Westinghouse Unions in 1973 adopted by the Steering Committee of the Coordinated Bargaining Committee of GE-Westinghouse Unions is attached hereto as Exhibit A and made a part hereof. Page 4 thereof 1st column contains the statement of a policy to eliminate all provisions which discriminate against pregnant employees. Page 4 thereof lists the names and union representation of the members of the steering committee. When the list of labor organizations represented on this steering committee is compared with the list of unions on Exhibit A to the Affidavit of Thomas F. Hilbert, Jr., attached to the Motion To Bring In Third-Party Defendants it appears that all except 50 of the females employed by defendant GE who have union representation are represented by the plaintiff International Union or some other union member of the Coordinated Bargaining Committee. A copy of the Race and Sex Discrimination Proposal adopted unanimously by said Steering Committee on January 15, 1973 as the proposal which each union would submit to defendant GE as its bargaining demand in implementation of the foregoing Statement of Policy is attached hereto marked Exhibit B and made a part hereof. The third sentence of Section 21(d) thereof shows that these unions are seeking sickness and disability benefits for pregnancy related disabilities the same as for any other disability.

4. As further appears from the affidavit of Thomas F. Hilbert, Jr., attached to the Motion To Bring In Third Party Defendants, and marked as Exhibit A, all of the contracts with other unions will expire prior to the trial date

set in this case except one contract with the Allied Industrial Workers applicable to the Owensboro, Kentucky plant of defendant GE which will expire on August 19, 1973. The Allied Industrial Workers is a member of the Coordinated Bargaining Committee and seeks the same provisions as would result should the relief prayed in the complaint be granted.

5. The defendant GE at all times here material has maintained a "uniformity policy" pursuant to which the defendant GE insisted on having its General Electric Insurance Plan apply to all its employees, whether represented by the plaintiff International Union, by other unions or by no union. The National Labor Relations Board in *General Electric Company*, 192, 272, fn. 119, enforced 418 F.2d 736, 741, 752 (2d Cir. 1969), cert. denied 357 U.S. 965 (1970) found that by its insistence on uniformity the defendant GE had refused to bargain collectively with the plaintiff International Union and all other unions with respect to changes in its insurance plan. Charges that the defendant GE had refused to bargain collectively during the 1963, 1966 and 1969-1970 negotiations were filed. The charges with respect to the 1963 negotiations were filed jointly by the plaintiff International Union, the United Automobile, Aerospace and Agricultural Implement Workers (UAW) and the United Steelworkers of America (USA), all as more fully appears from a copy of such charges marked Exhibit C and attached hereto. The National Labor Relations Board upon investigation determined that in the later years the defendant GE had engaged in the same refusal to bargain collectively as occurred in 1960 but declined to issue a complaint as proceedings would be merely a duplication of the findings and order issued in 150 NLRB 192 which had not yet been enforced by the courts, all as more fully appears from the letter of

Ivan C. McCleod, Regional Director, NLRB to the plaintiff International Union dated October 11, 1968, a copy of which is attached hereto marked Exhibit D and made a part hereof.

The NLRB did issue a complaint in connection with the 1966 negotiations which resulted in a finding that the defendant GE had engaged in an unlawful refusal to bargain. *General Electric Co.*, 173 NLRB 253 (1968) enforced as modified 412 F.2d 512 (2d Cir. 1969). The plaintiff International Union filed charges of unlawful refusal to bargain in 1969-1970 but the NLRB refused to issue a complaint. NLRB Case No. 2-CA-11953.

6. The defendant GE has insisted on its uniformity policy to such an extent that it has refused to include any mention of the plaintiff International Union or any other union in the General Electric Insurance Plan. The defendant GE distributes to all its employees whether represented by the plaintiff International Union, other unions or no union the pamphlet entitled General Electric Insurance Plan with Comprehensive Medical Expense Benefits, As Amended January 26, 1970 ERB-32D, a copy of which is attached hereto marked Exhibit E and made a part hereof. The collective bargaining agreement which the defendant GE has entered into with the plaintiff International Union and with the other unions representing its employees in no case sets forth any terms and conditions respecting the payment of weekly sickness and accident benefits but merely states that the defendant GE agrees to pay the benefits set forth in the General Electric Insurance Plan. In these circumstances the relief here requested would not deprive any union of any contractual benefit. There is no basis for assuming that any union would object to having this Court hold that the benefits

which the defendant GE is lawfully required to pay are greater than those expressly specified in the General Electric Insurance Plan.

7. The defendant GE has taken the position that all of the other unions with which it has contracts stand in the same position as the plaintiff International Union, with respect to the issues here involved. As appears from page 2, paragraph 6 of the affidavit of Thomas F. Hilbert Jr., attached to the Opposition of Defendant General Electric Company To Motion To Dismiss Counterclaim, the plaintiff International Union included among its bargaining demands in 1955, 1963, 1966 and 1969 a proposal that the defendant GE remove from the General Electric Insurance Plan the language excluding pregnancy-related disabilities and grant six weeks of weekly sickness and accident benefits. With all the other unions admittedly standing in the same position as the plaintiff International Union in this regard, they have no interest which would be adversely affected by the relief here prayed.

8. All of the unions representing female employees of the defendant GE are fully aware of the existence of this suit. They all have competent legal advice. Should any of them deem any of the relief herein prayed inconsistent with its interests, it will move for leave to intervene.

For the foregoing reasons it is respectfully urged that this Court should deny the motion of defendant GE to bring in additional defendants, or, in the alternative to dismiss the complaint.

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Winn Newman
Ruth Weyand
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Attorneys for Plaintiffs

May 10, 1973

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EXHIBIT A.

STATEMENT OF POLICY

ON THE BASIC BARGAINING GOALS OF GE-WESTINGHOUSE UNIONS IN 1973

Adopted by the Steering Committee of the Coordinated Bargaining Committee of GE-Westinghouse Unions

The Steering Committee of the Coordinated Bargaining Committee, representing the members of 14 international unions who are employed by the General Electric and Westinghouse companies, is charged with formulating a wage policy and national bargaining goals which will result in realistic, attainable and justifiable benefits for those whose labor is the life-blood of these corporations.

After conducting Grass Roots meetings throughout the country, the Steering Committee will evolve general guidelines broadly applicable to both GE and Westinghouse It will be the responsibility of the bargaining committees of the various unions to implement these national goals through negotiations for the units they represent.

* * *

In these troubled and uncertain times, our members rightly look to their unions for solutions. Our experience over the last seven years has proved that only through the united action of all our organizations can effective progress be made. In that spirit we recommend the policies set forth below.

* * *

ANTI-DISCRIMINATION

The Equal Employment Opportunity Commission has found that GE and Westinghouse are violating federal law by such practices as the maintenance of discriminatory hiring and pay schedules for women and the denial to them of better jobs. These practices are not only illegal but are deeply offensive to the fundamental principles of the labor movement.

In order to bring about a total and complete end to such practices we will continue to seek contractual changes such as:

- Arbitration as a matter of right for grievances alleging discrimination because of race, color, sex, creed, marital status, age or national origin.

- Joint union-management committees in each plant and a review committee at the national level to look into such cases.

- A system of in-plant advertising of all job vacancies that affords all employees an opportunity to make known their desire to be considered for the vacancies under applicable seniority rules.

- The elimination of all provisions which discriminate against pregnant employees.

* * *

CONCLUSION

The above items are those which the Steering Committee believes require special emphasis. We stress, however, that they by no means represent a complete list of national bargaining goals.

There are many phases of the present contracts that need to be improved and modernized. These have been examined at length by the committee, and specific proposals with respect to them will emerge during the course of bargaining.

We urge each negotiating committee to conduct a complete review of existing agreements with a view toward remedying deficiencies that have been disclosed by experience. Every effort should be made to incorporate in the new agreements, were appropriate, benefits that are now provided by some contracts but not others.

Finally, let us note again that no matter how justifiable our bargaining goals may be, they will not be attained unless our bargaining mechanism is effective. We who bargain with GE and Westinghouse know, from years of past frustration, that effective bargaining is possible only through unity, the unity we have achieved through the Coordinated Bargaining Com-

mittee. The CBC proved its worth in 1966 and 1969, and we are confident that it will continue its indispensable role in the success of our bargaining in 1973.

Steering Committee Members

Fred J. Purcell, IAM
Dominic Carnavale, UA
John Curan, IBFO
Nelson Samp, UAW
George Turner, USA
Paul F. Stuckenschneider, SMW
James Parker, Carpenters
Frank Demeria, Teamsters
John Zalusky, AIW
Joseph F. Swain, AFTE
Albert Vottero, AFGW
Joseph Turkowski, UE

Richard H. Mills, IBEW
Treasurer

James D. Compton, IUE
Chairman

EXHIBIT B.

Race and Sex Discrimination Proposal

EEOC has found that General Electric and Westinghouse are engaged in a number of practices, including the maintenance of a discriminatory hiring and pay schedule for females and the denial to them of better jobs, which violate Title VII of the Civil Rights Act of 1964. A number of lawsuits involving such matters are also pending in Federal Courts. In order to bring about a total and complete end to such practices, we recommend contractual changes to eliminate all discriminatory provisions and to include new provisions to correct existing discriminatory *practices* including:

(a) Arbitration as a matter of right for grievances alleging violation of the prohibition on discrimination because of race, color, sex, etc. (Article IV, Sec. 3 of GE Agreement; Article IV, Section 3 of Westinghouse Agreement). EEOC has held that IUE violated Title VII because the Westinghouse contract does not require arbitration of a sex discrimination grievance.

(b) Joint union-management committees in each plant and a review committee at the national level. The local committee shall investigate complaints that rates are discriminatory either because the female was being paid at a lower rate than a male doing substantially equal work or was paid at a rate which was lower than an evaluation of the job would reasonably have fixed under standards applies to males. The local union or management may request review by the national committee. Any dispute remaining may be referred by either party to arbitration.

(c) A system of in-plant advertising all job vacancies and affording all employees an opportunity to make known their desire to be considered for the vacancy. This is essential to end discrimination against minority groups and females in promotions. The job stratification which presently exists in most GE and Westinghouse plants shows that they have hired and promoted on the theory that certain jobs were appropriate for males, others for females. In such cases the courts have held that failure to post job vacancies is itself a violation of Title VII and that the posting should contain a description of the job, rate of pay, qualifications required for job and if senior employee is not chosen, a written statement of why the senior employee was not chosen. In accordance with court decisions, the contract should provide that in any instance in which GE or Westinghouse contemplates filling a vacancy with anyone other than the senior applicant, the

company shall notify the local, meet with representatives of the local and explain to them its reasons for deviating from seniority and hear their arguments before making final selection.

(d) The elimination of all provisions in the national agreement or local supplements which single pregnancy out for special treatment. As long as pregnant employees are able to work they should be treated exactly the same as other able bodied employees. To the extent that an employee is disabled by pregnancy, childbirth or complications arising therefrom, the rights to leave, return to work, accumulation of service credits and sickness and accident benefits should be the same as for any disabled employee.

(e) For GE only, correct the pension plan to permit male employees the same early retirement benefits as are presently provided for female employees.

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

ORDER
[Filed May 9, 1973]

In accordance with the memorandum of the Court filed on April 30, 1973, and upon submissions of and conference with counsel with respect to this matter, and deeming it just and proper so to do, it is ADJUDGED and ORDERED that

the Legal Notice filed this day be distributed and promulgated in accordance with the terms set forth therein.

Let the Clerk send copies of the notice and this order to counsel of record.

/s/ ROBERT R. MERHIGE, JR.
United States District Judge

Date: 5/9/73

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted]

* * * * *

LEGAL NOTICE
WITH RESPECT TO ALL FEMALE EMPLOYEES
OF GENERAL ELECTRIC COMPANY
[Filed May 9, 1973]

Pursuant to Rule 23 (c)(2) of the Federal Rules of Civil Procedure, YOU ARE HEREBY NOTIFIED:

Individual named plaintiff employees of General Electric Companyhave commenced legal action themselves and as representatives of a primary class consisting of the following:

> "All females who are now or have been employed by the defendant GE on or after September 14, 1971, or who became employed by defendant GE during the pendency of this suit, at any of its plants, offices and shops wherever located and also all females whose claims or grievances against the defendant GE for sickness or accident benefits for a period of disability due to childbirth or other pregnancy related disability were filed before September 4, 1971 and were still pending on September 14, 1971 or could still be timely filed on or after September 14, 1971."

The foregoing described class seeks declaratory and other relief. In addition to the aforementioned class, a sub-class had been declared to include all those in the above class who become disabled from work by reason of pregnancy or who file

claims with respect to pregnancy with the defendant General Electric Company. This portion of the primary class is referred to herein-after as the sub-class. If you are a member of the class or sub-class your rights may be affected by this action. Plaintiffs in this action allege, in essence, that General Electric Company violated Title VII of the Civil Rights Act of 1964 by refusing to make weekly non-occupational sickness and accident benefit payments available for total disability resulting from pregnancy, miscarriage or childbirth. Should the Court conclude that General Electric must pay sickness and accident benefits in cases of childbirth or other pregnancy related disabilities, appropriate action will be taken by the Court for determing the amount, if any, due each member of the sub-class, at which time each such member will have the opportunity to be heard as to the amount due her. Only those employees of General Electric who are members of the sub-class aforementioned may be excluded from the sub-class by filing written notice of their intention to be so excluded, and causing same to be delivered to W. Farley Powers, Jr., Clerk of the United States District Court for the Eastern District of Virginia, 10th and Main Streets, Richmond, Virginia 23219 by no later than June 11, 1973. If any such requests be filed by mail same shall be postmarked not later than June 7, 1973.

The failure to request exclusion from the sub-class in accordance with the foregoing paragraph will result in inclusion as a member of the class bound by such judgment, whether favorable or not, as the Court may enter; and any member not requesting exclusion may, whether she be a member of the primary class or the sub-class, if she desires, enter an appearance through her own counsel providing said appearance is made by not later than June 10, 1973.

All employees of General Electric who have been, are or become pregnant during the pendency of this usit are requested to keep a record of the days they were unable to work by reason of childbirth or a pregnancy related disability and in the event they shall cease to be employed by General Electric, to notify the Clerk of this Court of any change of address.

Pursuant to the order of the Court, the foregoing notice shall be posted in two or more conspicuous places in each and every plant, office and shop accessible to and utilized by female employees of the General Electric Company.

By Order of the Court.

W. Farley Powers, Jr.
Clerk, United States District Court

by

/s/ PAUL P. VEST, JR.,
Paul P. Vest, Jr., Deputy Clerk

Date: May 9, 1973

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

ORDER
[Filed May 14, 1973]

Deeming it proper so to do, it is ADJUDGED and ORDERED that the legal notice referred to in the Court's order of May 9, 1973 be, and the same is hereby, amended as follows: The date of June 11, 1973 and the date of June 7, 1973 as shown on Page Two of that notice shall read June 25, 1973 and June 22, 1973 respectively.

Let the Clerk send copies of this order to all counsel of record.

/s/ ROBERT R. MERHIGE
United States District Judge

Date: May 14, 1973

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND, VIRGINIA

(Title omitted in printing)

* * * * *

MOTION BY PLAINTIFF TO AMEND LEGAL NOTICE WITH RESPECT TO ALL FEMALE EMPLOYEES OF GENERAL ELECTRIC COMPANY

[Filed May 11, 1973]

Now come the plaintiffs, through their counsel, and move this Court to amend the Legal Notice filed by this Court on May 9, 1973, in the following respects:

1. To delete the letter (c) in the first sentence of the Legal Notice and insert the letter (d) in its place so that the first sentence should read "Pursuant to Rule 23 (d) (2) of the Federal Rules of Civil Procedure, YOU ARE HEREBY NOTIFIED."

2. To add the following sentence at the conclusion of the first paragraph on page two of the Legal Notice:

Notice of intention to be excluded from the subclass shall not operate to exclude any person from the primary class.

Respectfully submitted,

/s/ SEYMOUR DUBOW

Seymour DuBow
Suite 402, Heritage Building
10th and Main Streets
Richmond, Virginia 23219

Ruth Weyand
1126 16th Street, N.W.
Washington, D.C. 20036

Attorneys for Plaintiff

THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

MEMORANDUM IN SUPPORT OF MOTION TO AMEND LEGAL NOTICE

[Filed May 11, 1973]

The plaintiffs maintain that this Court's Legal Notice filed on May 9, 1973, should be amended in order to clarify that the Legal Notice is pursuant to Rule 23 (d) (2) of the Federal Rules of Civil Procedure and that the subclass members may request exclusion only as to the issue of damages. Notice pursuant to Rule 23 (c) (2) applies only in the language of that Rule "[i] In any class action maintained under subdivision (b) (3),". Since this Court in its order of April 30, 1973, held this suit a class action pursuant to Rule 23 (b) (l) and (2), Rule 23 (c) (2) is not applicable here, and notice should be given pursuant to Rule 23 (d) (2).

Respectfully submitted,

/s/ SEYMOUR DUBOW

Seymour DuBow
Suite 402, Heritage Building
10th and Main Streets
Richmond, Virginia 23219

Ruth Weyand
1126 16th Street, N.W.
Washington, D.C. 20036

Attorneys for Plaintiffs

UNITED STATES DISTRICT COURT
FOR THE EASTERN DIVISION OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

ORDER
[Filed May 14, 1973]

In accordance with the Memorandum of the Court filed April 30, 1973, and deeming it just and proper to do so, it is adjudged and ordered that the legal notice filed May 9, 1973 be distributed in the following manner.

1. Defendant General Electric Company shall provide the Court with a complete list of the names and addresses of all of its Employee Relations Managers on or before May 14, 1973.

2. On or before May 21, 1973, Plaintiff's counsel shall deliver to the Clerk envelopes separately addressed to each General Electric Employee Relations Manager and containing six copies of the legal notice filed herein on May 9, 1973 and one copy of this Court's letter of May 14, 1973.

3. The Clerk of this Court shall mail the aforesaid notices to General Electric Company's Employee Relations Managers and plaintiffs will reimburse the Clerk for the cost of mailing.

4. Within 36 hours of receipt, each General Electric Employee Relations Manager, or his designee, shall send two or more copies of the notice to each plant, office, shop or other company location for which his office has employee relations responsibility. He will direct the responsible employee in each plant, office, shop or location immediately to post the notice in two or more conspicuous places in such plant, office, shop or location.

5. Within three days of receipt of the letter and notices, each General Electric Employee Rleations Manager, or his designee, shall write the Clerk of this Court to advise that the notices were forwarded to the appropriate employees as required by the Court's letter.

Let the Clerk send copies of the order to counsel of record.

/s/ ROBERT R. MERHIGE
United States District Judge

Date: May 14, 1973

JUDGE'S CHAMBERS
UNITED STATES DISTRICT COURT

RICHMOND, VIRGINIA 23219

ROBERT R. MERHIGE, JR.
JUDGE

May 14, 1973

McGuire, Woods & Battle
Ross Building
Richmond, Virginia 23219

Attnetion: Mr. John S. Battle, Jr, Esq.

RE: Gilbert v. G.E.
C. A. No. 142-72-R

Dear Mr. Battle:

I have this day entered an order directing that each General Electric Company Employee Relations Manager foward two copies of the Legal Notice filed herein, as well as a copy of this letter, to each plant, office, shop or other company location for which that manager has responsibility. In turn, the responsible employee recipient is directed to post the notice in two or more conspicuous places to the end that the notice will be brought to the attention of each female employee of General Electric.

Each Employee Relations Manager is requested to forward additional copies of the legal notice to the larger plants as he or she may deem necessary in order to effectuate the purpose of same. Additional copies may, if necessary, be obtained from the Court.

Should any question arise as to employees right to request exclusion from the sub-class it is to be noted that that right applies exclusive to members of the sub-class and not to employees who are members of the primary class only.

Your cooperation and that of the personnel of General Electric Company is much appreciated.

Very truly yours,

/s/ ROBERT R. MERHIGE, JR.
Robert R. Merhige, Jr.
U.S. District Judge

cc: All Counsel

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

[Filed April 13, 1974]

ORDER

[Order printed in full in Joint Petition for a Writ of Certiorari p. 46a]

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

[Filed April 13, 1974]

[Opinion of District Court printed in full in Joint Appendix for a Writ of Certiorari pp. 2a-46a]

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

[Filed April 18, 1974]

MOTION TO AMEND STATEMENT
IN COURT'S OPINION

Now comes the plaintiffs, Martha V. Gilbert, *et al.*, through their counsel and moves to amend the following statement on page 3, paragraph 3 of this Court's opinion in this case dated April 13, 1974:

> . . . although during 1971 G.E. received over 5,500 claims for S&A benefits from women absent because of pregnancy.
> [Interrogatory #36]

The defendant's answer to interrogatory #36 states that ". . . during 1971 there were 5,545 claims for *maternity expenses* [emphasis added] incurred by G.E. employees . . .". That answer was in response to plaintiff's interrogatory to state the number of claims paid for maternity services. The plaintiffs, therefore, move to correct this Court's statement that the claims were for S&A benefits by deleting the words *S&A benefits* and inserting the words *maternity expenses.*

Respectfully submitted,

Seymour DuBow
Suite 402 Heritage Building
Tenth and Main Streets
Richmond, Virginia
(304) 649-3415

Winn Newman
Ruth Weyand
1126 16th Street, N.W.
Washington, D.C. 20036
(202) 296-1200

Attorneys for Plaintiffs

April 17, 1974

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

[Filed April 19, 1974]

ORDER

Deeming it proper so to do, it is ADJUDGED and ORDERED that the Court's memorandum of April 13, 1974 be amended in the following respect: The phrase "S & A benefits" contained in the fifth line of paragraph II on page 3, be, and the same is hereby, deleted, and there is substituted therefor "maternity expenses."

Let the Clerk send copies of this order to all counsel of record.

/s/ ROBERT R. MERHIGE, JR.
Robert R. Merhige, Jr.
United States District Judge

Date: April 19, 1974.

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

[Filed May 9, 1974]

ORDER

[Stay order printed in full in Joint Petition for a Writ of Certiorari, p. 50a]

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

[Filed May 9, 1974]

NOTICE OF APPEAL

Notice is hereby given that General Electric Company, defendant above named, hereby appeals to the United States Court of Appeals for the Fourth Circuit from Paragraphs 1, 2, and 3 of the Order of this Court entered in this action on April 13, 1974.

/s/ JOHN S. BATTLE, JR.
John S. Battle, Jr.

THEOPHIL C. KAMMHOLZ
STANLEY R. STRAUSS
1750 Pennsylvania Avenue, N.W.
Washington, D.C. 20006

JOHN S. BATTLE, JR.
J. ROBERT BRAME, III
McGuire, Woods & Battle
1400 Ross Building
Richmond, Virginia 23219

Dated: May 8, 1974.

IN THE
UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND, VIRGINIA

[Title omitted in printing]

* * * * *

[Filed July 23, 1973]

PRE-TRIAL STIPULATION OF FACTS

It is hereby stipulated and agreed by and between the undersigned attorneys for the respective parties hereto that, subject to the right of either the plaintiffs or the defendant to object as to relevancy or materiality as to any fact or facts, the following may be accepted by the Court as admitted fact or facts on the trial of this case:

1. The plaintiff International Union of Electrical, Radio and Machine Workers (AFL-CIO) hereinafter called International Union, and the defendant General Electric Company, hereinafter called GE, on February 4, 1970, entered into a 1970 Settlement Agreement, a copy of which is attached hereto marked as Exhibit A, which by its terms was effective until May 26, 1973.

2. Part Three of said 1970 Settlement Agreement is the 1970-1973 GE-IUE National Agreement, a copy of which is attached hereto marked Exhibit B. The foregoing 1970 Settlement Agreement has been recognized by International Union and GE as applicable to all the plants and classifications listed on pages 1 to 5, inclusive of the 1970-1973 GE-IUE (AFL-CIO) National Agreement, and also to certain additional plants and classifications for which the International Union has been certified subsequent to February 4, 1970.

3. At all times since January 26, 1970, pursuant to the 1970 Settlement Agreement and particularly to the provisions of the 1970 GE-IUE Pension and Insurance Agreement, GE has provided and does now provide non-occupational sickness and accident benefit payments to all of its employees represented by the plaintiff International Union and its affiliated IUE locals in an amount equal to 60 percent of an employee's normal straight time weekly earnings up to a maximum benefit of $150 for each week he or she is totally disabled as a result of a non-occupational accident or sickness for a period up to and including 26 weeks for any one continuous period of disability or successive periods of disability due to the same or related cause, excepting therefrom absences due to pregnancy or resulting childbirth or to complications in connection therewith. The full terms and conditions governing the payment by defendant GE to such employees of weekly non-occupational sickness and accident benefits and medical expense benefits at all times since January 26, 1970, are set forth in the General Electric Insurance Plan with comprehensive Medical Expense Benefits, as amended January 26, 1970 (ERB 32D), a copy of which is attached hereto as Exhibit C.

4. From October 3, 1966 until October 26, 1969, pursuant to the 1966 Settlement Agreement, and between October 27, 1969 and January 26, 1970, pursuant to agreement between GE and plaintiff International Union, Ge provided non-occupational sickness and accident benefit payments to all employees represented by the plaintiff International Union and its affiliated IUE locals in an amount equal to one-half of an employee's normal straight time weekly earnings with a minimum weekly benefit of $32.50 and a maximum weekly benefit of $100 for each week he or she is totally disabled as a result of a non-occupational accident

or sickness for a period up to and including 26 weeks for any one continuous period of disability or successive periods of disability due to the same or related cause, excepting therefrom absences due to pregnancy or resulting childbirth or to complications in connection therewith. The full terms and conditions governing the payment by defendant GE to such employees of weekly non-occupational sickness and accident benefits and medical expense benefits during the period from October 3, 1966 to January 26, 1970, are set forth in the General Electric Insurance Plan with Comprehensive Medical Expense Benefits, as amended October 3, 1966 (ERB 32B), a copy of which is attached hereto as Exhibit D.

5. At all times since January 1, 1970, pursuant to the 1970 Settlement Agreement, GE has maintained for hourly employees represented by the plaintiff International Union and its affiliated IUE locals the General Electric Long-Term Disability Insurance Plan for Hourly Employees effective January 1, 1970 (ERB 135), a copy of which is attached hereto as Exhibit E.

6. At all times since January 1, 1970, pursuant to the 1970 Settlement Agreement, GE has maintained for salaried employees represented by the plaintiff International Union and its affiliated IUE local unions the General Electric Long-Term Disability Income Plan for Salaried Employees, as amended January 1, 1970, a copy of which is attached hereto as Exhibit F.

7. At all times since January 26, 1970, pursuant to the 1970 Settlement Agreement, GE has maintained for the employees represented by the plaintiff International Union and its affiliated locals the General Electric Pension Plan, as amended January 1, 1970 (ERB-42E), a copy of which is attached hereto as Exhibit G.

8. At all times since January 1, 1970, GE has maintained for pensioners who retired from employment in which they were represented by plaintiff International Union and its affiliated IUE locals, the medical care plan for pensioners which is set forth in the aforesaid 1970 GE Insurance Plan with Combined Medical Expense Benefits (ERB 32D). Attached hereto as Exhibit H-1 is a copy of a booklet entitled "General Electric Medical Care Plan For Pensioners" (ERB-107C), in which there is reproduced the medical care plan for pensioners set forth in such General Electric Insurance Plan.

9. At all times since January 1, 1971, pursuant to the 1970 Settlement Agreement, GE has maintained for all employees represented by the plaintiff International Union and its affiliated IUE locals the Individual Development Program, effective January 1, 1971 (ERB-161), a copy of which is attached hereto marked as Exhibit I.

10. The General Electric Insurance Plan with Comprehensive Medical Expense Benefits as amended July 26, 1970 (ERB-32D), a copy of which is attached hereto as Exhibit C, is made applicable to GE employees who are not represented by the plaintiff International Union and its affiliated IUE locals. As to those GE employees represented by unions other than plaintiff International Union and its affiliated IUE locals, the Plan is made applicable pursuant to collective bargaining agreements between GE and such unions.

11. At all times since October 3, 1966, and at the present time GE has been and is primarily responsible for the payment to its employees of the weekly sickness and accident benefits specified in the General Electric Insurance Plan then and now operative and was and is in effect a self-insurer. With respect to coverage outside of California

during this period, GE has obtained an insurance policy covering weekly sickness and accident benefits, among others, whereunder a tentative initial premium was paid to Metropolitan Life Insurance Company (hereinafter "Metropolitan Life") subject to later adjustment in the light of actual experience. In California GE has made no arrangements with any insurance carrier with respect to its weekly sickness and accident undertaking under the Insurance Plan. With respect to weekly sickness and accident coverage under the Insurance Plan for employees in California, GE was and is a self-insurer in form and in effect.

12. The plaintiff International Union as one of its proposals during national bargaining negotiations with defendant GE in each 1955, 1963, 1966 and 1969 requested the deletion of the language then present and still present in the General Electric Insurance Plan, at p. 18 of Exhibit C attached hereto, which then provided and still provides that benefits under the Weekly Sickness and Accident Insurance Plan will not be payable for any absence due to pregnancy or resulting childbirth or to complications in connection therewith. During each of said negotiations the plaintiff International Union requested the defendant GE to pay weekly sickness and accident benefits for a maximum of six weeks for absences due to pregnancy or resulting childbirth but defendant GE refused to agree to make any payment of weekly sickness and accident benefits for absences due to pregnancy or childbirth. Exhibit H-2 attached hereto is a correct copy of the proposals for changes in the General Electric Insurance Plan which the plaintiff International Union presented to defendant GE on August 26, 1969.

13. Attached hereto as Exhibit J-1 are pages 118 and 123 of the minutes maintained by defendant GE of the IUE National Level Meeting of September 13, 1966, which took place as part of the 1966 national negotiations. Attached hereto as Exhibit J-2 are pages 1 and 4 of the minutes maintained by the plaintiff International Union of the negotiation session of September 13, 1966. Attached hereto as Exhibit K-1 are pages 460 and 468 of the minutes maintained by GE of the IUE Negotiating Committee Meeting of September 18, 1969, which took place as part of the 1969 national negotiations. Attached hereto as Exhibit K-2 are pages 1 and 2 of the minutes maintained by the plaintiff International Union of the negotiation session of September 18, 1969. None of the minutes maintained by either the plaintiff International Union or the defendant GE is a verbatim transcript of what transpired at the meetings to which the minutes relate; nor do such minutes necessarily reflect everything that was said or the words used; nor do the minutes or what was actually said necessarily include all the reasons which the defendant GE may have had in 1966 or 1969 for refusing to agree that Benefits under its Weekly Sickness and Accident Insurance Plan should be payable for absences related to pregnancy.

14. The sheets attached hereto marked Exhibit L-1 to L-70 inclusive are correct copies of the records of the defendant GE showing the hourly straight time earnings of its employees at plants represented by the plaintiff International Union in December 1972. The figure 30 in the left hand column designates hourly straight time earnings of $3.00. The figure 31 in the lefthand column designates hourly straight time earnings of $3.10. The heavy black horizontal line across the page with an hourly earnings figure entered in long hand above the line indicates the common labor or equivalent rate at the plant designated.

The initials DW designate day work. The initials PW designate piece work.

15. Exhibit M attached hereto is a correct copy of pages 382-387 of the book by John Winthrop Hammond entitled Man and Volts: The Story of General Electric (Lippincott Company, 1941).

16. Exhibit N-1 attached hereto is a correct copy of pages 152-156 of the book by Davith Loth entitled Swope of GE: The Story of Gerard Swope and General Electric in American Business (Simon and Schuster, New York, 1958).

17. Exhibit N-2 attached hereto is a correct copy of pages 131 to 137 of volume 154 of the Annals of the American Academy of Political and Social Science (March 1931) which prints what purports to be a speech by Gerard Swope, then president of GE.

18. Exhibit O-1 is a correct copy of pages 16 and 17 of the General Electric Annual Report for 1928; Exhibit O-2 is a correct copy of the cover page and pages 16-25 of the General Electric Annual Report for 1930; Exhibit O-3 is a correct copy of the cover page and two pages headed Employee Benefit Plan Statistics of the General Electric Annual Report for 1943; Exhibit O-4 is a correct copy of the cover page and pages 20-21 of the General Electric Annual Report for 1949; Exhibit O-5 is a correct copy of the cover page and page 12 of the General Electric Annual Report for 1958; Exhibit O-6 is a correct copy of the table of contents page and pages 17-19 of the General Electric Annual Report for 1957. Each of the foregoing was the official report of the defendant GE issued to its stockholders for the year indicated.

19. Exhibit P attached hereto is a correct copy of a document printed by the U.S. Department of Commerce, "Unemployment: Industry Seeks a Solution" (Govt. Print. Off. 1931) pp. 1-5, purporting to be an address on December 16, 1930, by Gerard Swope, then president of GE.

20. Exhibit Q attached hereto is a correct copy of pages 23-51, 91-100, Hearings Before a Select Committee on Unemployment Insurance, United States Senate, 72nd Cong., 1st Sess., pursuant to S. Res. 483 (71st Cong.) on October 19, 1931 (U.S. Govt. Print. Off. 1931).

21. Exhibit R attached hereto is a correct copy of pages 19-62 of a book entitled "The Swope Plan" edited by J. George Frederick, and printed by The Business Bourse, New York 1931. Exhibit S attached hereto is a correct copy of pp. v-ix, 1-9, 24-25, and 108-109 of a book entitled "New Frontiers for Professional Managers," as printed by McGraw-Hill Book Company, Inc., 1956, containing pages purporting to be addresses given in April and May 1956 by Ralph J. Cordiner, then president of General Electric Company.

22. Exhibit T attached hereto is a correct copy of a decision issued December 29, 1945, by the National War Labor Board in *General Electric Co.*, 28 War Lab. Rep. 666 (1945).

23. The Employee & Community Relations Instructions bearing the issue date 2-1-68, Instructions No. ER-2.31 and ER-2.32, copies of which are attached hereto marked Exhibit U-1 and U-2, were issued to management personnel by defendant GE at its Salem, Virginia plant on the date indicated. The Employee Handbook, GE, Industrial Control Department, Salem, Virginia, attached hereto marked Exhibit U-3 was mailed to all non-supervisory employees

of the Salem plant in May or June 1970 and was distributed to all new non-supervisory employees hired during the rest of 1970 and 1971 during the orientation sessions conducted by the defendant GE for new employees. Copies of said Employee Handbook were distributed to all new nonsupervisory employees until the supply of the handbooks was exhausted. No record is available as to the exact date on which the supply was exhausted but it is believed to have been exhausted towards the end of 1971. No new handbook has been distributed to non-supervisory employees at any time since 1970. At no time since 1968 has the defendant GE issued any written notice or written instructions to non-supervisory employees at the Salem plant that the policy respecting mandatory leave stated in such Employee Handbook is no longer in effect.

24. Exhibit V is a filled-in form delivered by J.P. Yandell, Specialist, Personnel Practice, GE, Tyler, Texas, to the plaintiff Erma Faye Thomas. The next to the last sentence thereof reads: "Her absence due to pregnancy, unless otherwise indicated, should commence 2/13/72." Exhibit W is a filled-in form delivered by J.P. Yandell to Carolyn Busby. The next to the last sentence thereof reads: "Her absence due to pregnancy, unless otherwise indicated, should commence 4/14/72." Exhibit X is a true copy of a letter from Oliver N. Pettey, President IUE Local 182, to D.V. Dorey, Manager of GE's Tyler, Texas plant, dated February 15, 1972, and Exhibit Y is a true copy of a letter from S.J. Przywara, Manager Union Relations and Compensation to Oliver Pettey dated February 16, 1972.

25. The defendant GE at its Salem, Virginia plant at all times here material has followed the practice and at the present time does follow the practice of notifying each female who is about to go on leave for purposes of child-

birth that she is to phone the plant six weeks after her child is born.

26. Exhibits Z-1 and Z-2 are authentic copies of the News Digests issued by defendant GE to its employees at its plant at Murfreesboro, Tennessee, on or about the dates appearing thereon.

27. Exhibit AA attached hereto is a true copy of a grievance filed on 2/11/70 by Betty Snyder, an employee at the Tell City, Indiana plant of defendant GE, together with the foreman's answer to said grievance. Exhibit BB attached hereto is a true copy of the appeal filed by Betty Snyder on 2/16/70. Exhibit CC attached hereto is a correct copy of the Second Step answer to said grievance. Exhibit DD attached hereto is a true copy of the Third Step Answer to said grievance given in National Docket No. 23980.

28. Except as to plaintiff Doris Wiley, the defendant GE paid hospital bills for the childbirth or miscarriage of each of the individually named plaintiffs. As to those individually named plaintiffs represented by the plaintiff International and its affiliated IUE locals, such payments were made pursuant to the 1970-GE-IUE Pension and Insurance Agreement.

29. Exhibits PP, QQ, RR, SS, TT, UU, VV, and WW are true copies of the claims filed with the defendant GE by the plaintiffs Barbara S. Hall, Doris B. Wiley, Sharon E. Godfrey, Alberta B. Smith, Mary R. Williams, Johnnie E. Taylor, Martha V. Gilbert and Erma F. Thomas, respectively. The other employees listed below each filed a claim with the defendant GE for non-occupational sickness and accident benefits for all the period she was on pregnancy leave as shown in paragraph 41 herein, upon the form of

claim supplied by GE, which was certified and signed by her personal physician and in which the question if the disability was caused by pregnancy was checked "yes" by her physician. Each of said claims was respectively denied by the defendant GE on the date listed opposite the employee's name. The sole ground stated for the denial in all cases was that the General Electric Insurance Plan provides that benefits under weekly sickness and accident insurance will not be payable for any absence due to pregnancy, resulting childbirth or to complications in connection therewith. In those instances in which the employees also processed a grievance to the Third Step, the National Docket Number of the grievance is stated and where a Third Step answer denying the grievance has been received the date of such denial is as stated.

Name of Employee	Date Claim Denied	National Docket Number of Grievance	Date Third Step Answer Denying Grievance
Salem, Virginia			
Mary R. Williams	11-1-71		
Martha V. Gilbert	12-1-71	32785	12-14-72
Johnnie Taylor	11-1-71		
Albert B. Smith	11-1-71	31225	6-8-72
Doris B. Wiley	11-1-71	30887	6-8-72
Sharon E. Godfrey	11-16-71	31228	6-8-72
Barbara Hall	11-1-71	30886	6-8-72
Tyler, Texas			
Erma F. Thomas	5-2-72	33003	11-28-72
Tell City, Indiana			
Martha Hess	11-8-71	30925	4-20-72
Mary Huebshman	3-8-72	31609	7-20-72
Velma Hubert	12-14-71	30926	4-20-72
Barbara Richards	1-3-72	31261	4-20-72
Betty Labhart	1-24-72	31262	4-20-72

Name of Employee	Date Claim Denied	National Docket Number of Grievance	Date Third Step Answer Denying Grievance
Helen Smith	5-22-72	32645	10-27-72
Shirley Wiseman	5-8-72	32647	10-27-72
Philadelphia, Pa.			
Geraldine Lucifero	1-17-72	31776	6-29-72

30. The plaintiff Brenda Christian applied to defendant GE at its Fort Wayne plant on July 17, 1972, for a form on which to apply for weekly sickness and accident benefits but defendant GE refused to give her a form. On July 19, 1972, Bob Wire, Business Agent of Local 901, IUE, wrote a letter to H.K. Reinking, Manager, Personnel Accounting and Banking, GE, Fort Wayne, complaining of the refusal of defendant GE to furnish the plaintiff Brenda Christian with a form, a copy of which letter is attached hereto marked Exhibit EE. Under date of July 21, 1972, M.E. Hamilton, Manager Union Relations, GE, Fort Wayne, wrote the said Bob Wire a reply, a copy of which is attached hereto marked FF.

31. The plaintiff Emma Furch is employed at the Tyler, Texas plant of the defendant GE and has a seniority date of October 13, 1966. On April 5, 1972, she went on pregnancy leave and was hospitalized on April 7, 1972. On April 14, 1972, she delivered a stillborn baby. After returning home she was again hospitalized on April 21, 1972, due to a blood clot in the lung unrelated to her pregnancy or miscarriage. The plaintiff Emma M. Furch filed a claim with the defendant GE for weekly sickness and accident benefits, a copy of which is attached hereto as Exhibit XX. Her claim was returned attached to a letter, dated June 6, 1972, signed by S.J. Przywara, a copy of which is attached hereto as Exhibit YY.

32. The defendant GE at all times here material has paid and is paying weekly sickness and accident benefits on the basis of each calendar day so that each day of entitlement is paid at the rate of 1/7 of the weekly rate. The defendant GE at all times here material has and is now using calendar days in determining the 8th day on which the benefits start when an employee is disabled for eight days without being confined in a hospital during these days.

33. The defendant GE has an established and uniform policy of paying weekly sickness and accident benefits to each employee on account of a qualifying sickness and accident for such period as the employee is authorized to be absent and for such extended period or periods as are certified by the employee's personal physician, except where the defendant GE by its own physician disputes the existence of a disability, limited, however, by the maximum period of 26 weeks for any one disability or sickness. On many occasions an employee who had received such payments for 26 weeks thereafter failed to return to work, either because of death, continuing disability, retirement, or, in relatively few cases, because of quitting. In the relatively few quitting cases where an employee does not return to work after receiving sickness and accident benefits, only where defendant GE has contended the amounts were fraudulently obtained, has the defendant GE attempted to recover any amounts so paid.

34. The claim for Weekly Sickness and Accident Benefits filed by the plaintiff Martha V. Gilbert was denied by a letter to J.O. Randall, Supervisor, General Electric Company, from N.E. Sarmiento, Assistant Supervisor, Group Health Claims, Metropolitan Life, dated December 17, 1971, a copy of which is attached hereto marked Exhibit GG.

Copies of said letter were furnished to plaintiff Martha V. Gilbert and to plaintiff Local 161 on or about December 18, 1971. The claims of plaintiffs Alberta B. Smith, Johnnie Taylor and Doris B. Wiley for Weekly Sickness and Accident Benefits were each denied by a letter to J.O. Randall, Supervisor, General Electric Company from N.E. Sarmiento, Assistant Supervisor, Group Health Claims, Metropolitan Life, dated November 1, 1971, all of which were substantially similar with the aforesaid letter to plaintiff Martha V. Gilbert except for the name of the claimant. The claim of the plaintiff Barbara Hall for Weekly Sickness and Accident Benefits was denied by a letter to J.O. Randall, Supervisor, Group Health Claims, Metropolitan Life, date November 1, 1971, a copy of which is attached hereto marked Exhibit HH. Copies of said letter were furnished to the plaintiff Barbara Hall and to plaintiff Local 161 on or about November 2, 1971.

35. The plaintiffs Martha V. Gilbert, Sharon E. Godfrey and Doris B. Wiley each filed a grievance challenging the denial of her claim for Weekly Sickness and Accident Benefits for the period she was disabled by pregnancy. In each instance the grievance was denied at the first and second step of the grievance machinery. The answer of the defendant GE at the first step of the grievance machinery was in each instance in the form of a statement written by a supervisor of GE on the bottom of the grievance form. The plaintiff Sharon E. Godfrey filed her grievance on December 8, 1971, and the answer written thereon by her supervisor stated:

> "In accordance with the IUE-GE Pension and Insurance Agreement and page 18 of the Insurance Pension Booklet (ERB-32D) Weekly Disability Benefits are not payable for absence due to pregnancy or childbirth."

A copy of the grievance filed by the plaintiff Sharon E. Godfrey bearing thereon the denial by the defendant GE at the first step, is attached hereto marked Exhibit JJ. The grievances filed by the plaintiffs Martha V. Gilbert, Barbara Hall, Alberta B. Smith and Doris B. Wiley were each answered by the defendant GE at the first and second step in substantially the same words.

36. The grievances filed by the plaintiffs Sharon E. Godfrey, Barbara Hall, Alberta B. Smith and Doris B. Wiley were all sent to New York City for processing there at the third step in the grievance procedure in accordance with provisions of the IUE-GE National Agreement. These grievances were all presented to the defendant GE at the third step of the grievance procedure on May 25, 1972, and were all denied by the defendant GE by notification to the plaintiff IUE, entitled "Company Position, Roanoke, Virginia, L-161, meeting date May 25, 1972, New York," signed by B. Hindle, dated June 8, 1972, a copy of which is attached hereto marked Exhibit KK. The ground stated for the denial is as follows:

> "It is the Company position that the denial of sickness and accident benefits during a leave of absence for pregnancy is consistent with the terms of the Agreement negotiated between the Company and the Union and to which the Union is therefore a party."

37. In the instance of all claims filed by the individually named plaintiffs for weekly sickness and accident benefits and in the instances of all grievances filed by the individually named plaintiffs grieving the denial of their claims the defendant GE has never contested or admitted the fact that the gievant was disabled from work by pregnancy or childbirth, but has denied the claim and justified its rejection of the claim for Weekly Sickness and Accident Benefits solely on the ground that such benefits were not properly due when the absence was caused by pregnancy or childbirth.

38. The defendant GE has paid sickness and accident benefits for periods during which employees, whether male or female, are totally disabled because of:

(a) sclerosis of the liver
(b) lung cancer
(c) emphysema
(d) injury incurred in auto accident
(e) injury incurred in sport activity of employee
(f) injury incurred in a fight

Also defendant GE has paid sickness and accident benefits for periods during which employees, whether male or female, are totally disabled because of the following causes (the number of total claims based on disabilities resulting from such causes is infinitesimal and claims for such disabilities rarely occur):

(g) following a program for the cure of alcoholism
(h) injury incurred in an attempted suicide
(i) drug addiction
(j) following a program for the cure of drug addiction
(k) sterilization
(l) elective surgical operations unrelated to pregnancy
(m) elective plastic surgery
(n) following a program of psychiatric treatment

39. The defendant GE has on occasion temporarily assigned to other suitable work an employee who is disabled

temporarily from performing his or her regular job but is not disabled from performing other available work.

40. Exhibit LL attached hereto is a true and correct copy of pages 1, 34-36 of the minutes of the meeting of August 31, 1960, pages 16-17 of the minutes of the meeting of September 1, 1960, pages 1, 10-11 of the minutes of the meeting of September 7, 1960, and pages 14-16 of the minutes of the meeting of September 22, 1960, as recorded by the defendant GE in its minutes of the meetings between the plaintiff International Union and GE for the purpose of negotiating a new national agreement in 1960. Exhibit MM is a correct copy of pages 1 to 5 of the statement of Philip D. Moore, Manager Employer Relations, GE, made to the negotiations committee for the plaintiff International Union on September 22, 1966, as part of national negotiations between the plaintiff International Union and defendant GE in 1966. Exhibit NN is a correct copy of page 9 of the minutes maintained by the plaintiff International Union of the meeting of September 30, 1966. Exhibit OO attached hereto to a correct copy of pages 2-5 of the minutes maintained by the plaintiff International Union of the meeting of the morning of October 9, 1969, and pages 14-15 of the minutes maintained by the plaintiff International Union of the meeting of the afternoon of October 9, 1969. Both meetings took place as part of the 1969 national negotiations. None of the minutes maintained by either the plaintiff International Union or defendant GE is a verbatim transcript of what transpired at the meetings to which the minutes relate nor do such minutes necessarily reflect everything that was said or the words used.

41. Each of the employees whose name is listed below has the seniority date stated following her name, and ex-

cept for plaintiff Furch was absent for pregnancy, miscarriage or childbirth from the date stated in the column headed Date Went On Pregnancy Leave until the date listed in the column headed Date Returned To Work, at the time of leaving work to go on pregnancy leave had the straight time weekly earnings stated and gave birth to a baby or miscarried on the date indicated:

Name of Employee	Seniority Date	Date Went on Pregnancy Leave	Straight Time Weekly Earnings Date Went On Pregnancy Leave	Date Baby Born	Date Of Return To Work
Salem, Virginia					
Mary R. Williams	5-28-71	9-13-71	$109.00	2-22-72	3-27-72
Martha V. Gilbert	8-23-65	10-29-71	133.10	12-28-71	2-28-72
Johnnie Taylor	9-19-69	10-29-71	112.20	1-26-72	3-20-72
Alberta B. Smith	10-27-67	7-15-71	117.80	12-1-71	1-31-72
Doris B. Wiley	4-15-66	4-30-71	119.90	7-26-71	9-20-71
Sharon E. Godfrey	3-17-69	9-24-71	109.00	1-17-72	Did not return
Barbara Hall	4-4-66	8-13-71	124.52	11-22-71	1-17-72
Tyler, Texas					
Emma M. Furch	10-13-66	4-5-72	148.28	4-17-72*	6-6-72
Erma F. Thomas	6-25-71	4-14-72	121.20	4-14-72	5-30-72
Tell City, Indiana					
Martha Hess	1-25-66	7-29-71	105.80	10-17-71	12-13-71
Mary Huebschman	3-2-62	1-26-71	107.00	4-14-72	Did not return

* Plaintiffs contend this was a miscarriage at six months; GE contends that she was delivered of a stillborn full term baby.

Name of Employee	Seniority Date	Date Went On Pregnancy Leave	Straight Time Weekly Earnings Date Went On Pregnancy Leave	Date Baby Born	Date Of Return To Work
Velma Hubert	6-7-68	7-29-71	$102.84	9-26-71	12-6-71
Barbara Richards	6-13-69	9-17-71	105.80	3-4-72	5-1-72
Betty Labhart	2-4-63	1-8-72	112.80	3-7-72	5-1-72
Helen Smith	7-20-67	4-14-72	117.72	5-11-72	8-21-72
Shirley Wiseman	11-6-65	12-23-71	119.92	1-14-72	3-13-72
Fort Wayne, Indiana					
Brenda Christian	3-31-67	4-3-72	123.00	8-27-72	12-4-72

42. During August 1971 Robert Friedman, Assistant General Counsel of the plaintiff International Union, telephoned E.S. Willis, the Manager of Employee Benefits at the national level for the defendant GE, and during said telephone conversation Robert Friedman called the attention of E.S. Willis to EEOC Decision No. 71-1474, CCH-EEOC Decision Para. 6221, issued March 19, 1971.

/s/ RUTH WEYAND
Ruth Weyand
Consel for Plaintiffs

/s/ STANLEY R. STRAUSS
Stanley R. Strauss
Counsel for Defendant

Dated: May 23, 1973

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

PRE-TRIAL STIPULATION OF FACTS

[Filed July 24, 1973]

It is hereby stipulated and agreed by and between the undersigned attorneys for the respective parties hereto that, subject to the right of either the plaintiffs or the defendant to object as to relevancy or materiality as to any fact or facts, the following may be accepted by the Court as admitted fact or facts on the trial of this case:

101. All Answers, Supplemental Answers, and Revised Answers by General Electric Company ("GE") in response to Plaintiffs' Interrogatories dated September 21, 1972, and December 29, 1972, more specifically the Answers by GE dated November 15, 1972, the Supplemental Answers by GE served December 11, 1972, GE's Answers to Plaintiffs' "Third" Interrogatories dated February 27, 1973, GE's Supplemental Answer to Plaintiffs' "Third" Interrogatories dated April 4, 1973, GE's Revised Answer to Plaintiffs' Interrogatories dated April 30, 1973, GE's Further Supplemental Answers dated June 29, 1973, and GE's Answers to Plaintiffs' Fourth Interrogatories dated July 17, 1973, except the following: GE's Answers, Supplemental Answers, and Revised Answers to Plaintiffs' Interrogatories Nos. 41, 45, 57, 59, 61, 62, 68-69, and 70.

102. Prior to the commencement of the action GE was not notified, either verbally or in writing, by the Equal Employment Opportunity Commission that plaintiffs had filed charges with the Equal Employment Opportunity Commission ("EEOC") alleging that GE had engaged in unlawful employment practices as alleged in the complaint.

103. No investigation of plaintiffs' charges was made by the EEOC prior to the commencement of the action.

104. Prior to the commencement of the action no opportunity was afforded GE by the EEOC to eliminate the unlawful employment practices charged by plaintiffs by informal methods of conference, conciliation, and persuasion.

107. Exhibit 3 attached hereto is a true and correct copy of Paragraph 17, 304.44 of CCH Employment Practices, dated December 21, 1966.

108. Exhibit 4 attached hereto is a true and correct copy of Paragraph 1219 of CCH Employment Practices, dated April 22, 1971.

109. Exhibit 5 attached hereto is a true and correct copy of a Petition for Suspension, Hearing, Intervention and Declaration of Unlawfulness, dated January 18, 1971, In the Matter of American Telephone and Telegraph Company (hereinafter "AT&T") before the Federal Communications Commission, Docket No. 19143 (hereinafter "FCC Case No. 19143").

110. Exhibit 6 attached hereto is a true and correct copy of a Memorandum of the Bell Companies received in evidence on August 1, 1972 in FCC Case No. 19143.

111. Exhibit 7 attached hereto is a true and correct copy of Bell Exhibit 5 in FCC Case No. 19143.

112. Exhibit 8 attached hereto is a true and correct copy of pages 5455 - 5557 of the Report of Proceedings in FCC Case No. 19143.

113. Exhibit 9 attached hereto is a true and correct copy of FCC Staff Exhibit 36 dated November 24, 1972, in FCC Case No. 19143.

114. Exhibit 10 attached hereto is a true and correct copy of a letter from James R. Thompson to Honorable Jacob K. Javits, dated April 8, 1971, with attachments, received in evidence in FCC Case No. 19143.

115. Exhibit 11 attached hereto is a true and correct copy of the EEOC's Motion to Terminate Proceedings dated January 19, 1973, in FCC Case No. 19143.

116. Exhibit 12 attached hereto is a true and correct copy of the Memorandum of Agreement between the EEOC, U.S. Department of Labor, and Bell Companies, dated January 18, 1973, in FCC Case No. 19143.

117. Exhibit 13 attached hereto is a true and correct copy of a Complaint in *Communication Workers of America, AFL-CIO, et al.* v. *Illinois Bell Telephone Company,* Civil Action No. 73C 959, Northern District of Illinois, Eastern Division, filed April 13, 1973.

118. Groups or units of employees at various GE plants and locations have, pursuant to Section 9(a) of the National Labor Relations Act, as amended, 29 U.S.C. Section 159, designated plantiff International Union and its affiliated IUE Locals, including plaintiff Local 161, as their exclusive representatives and agents for all em-

ployees in their respective units for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment. In addition to the GE employees who have selected plaintiff International and its affiliated IUE Locals as their exclusive representative for purposes of collective bargaining, other groups or units of employees at various GE plants and locations have, pursuant to Section 9(a) of the NLRA, *supra*, designated various other labor organizations as their exclusive representatives and agents for all employees in their respective units for the purposes of collective bargaining in respect to rates of pay, wages, hours of employment, or other conditions of employment.

119. Plaintiff International Union entered into the 1970 Settlement Agreement with GE (Exhibit A to Pre-Trial Stip.) and the 1970 GE-IUE Pension and Insurance Agreement, pursuant to both of which the General Electric Insurance Plan with Comprehensive Medical Expense Benefits, as amended January 26, 1970, (ERB 32D) (Exhibit C to Pre-Trial Stip.) was made applicable to GE employees represented by plaintiff International Union and its affiliated IUE Locals, in its capacity as exclusive representative of the latter employees for the purposes of collective bargaining pursuant to Section 9(a) of the NLRA, *supra.*

120. Various labor organizations other than plaintiff International Union and its affiliated IUE Locals, acting in their capacities as exclusive representatives of GE employees pursuant to Section 9(a) of the NLRA, *supra*, entered into collective bargaining agreements with GE in 1970 pursuant to which the General Electric Insurance Plan with Comprehensive Medical Expense Benefits, as

amended January 26, 1970 (ERB 32D) (Exhibit C to Pre-Trial Stip.) was made applicable to GE employees represented by such labor organizations other than plaintiff International Union and its affiliated IUE Locals.

121. Exhibit 14 attached hereto is a true and correct copy of United States Civil Service Commission, Federal Personnel Manual, Chapter 630, Subchapter 13, Maternity Leave, as revised July 1969.

122. Exhibit 15 attached hereto is a true and correct copy of the United States Civil Service Commission Personnel Manual, June 1967, Subchapter 3-5, "Granting Sick Leave in Advance of Accrual" and Subchapter 4, "Maternity Leave", pages 630-8, 9, 10, 11.

123. Exhibit 16 attached hereto is a true and correct copy of the National Labor Relations Board, Administrative Policies and Procedure Manual, Title 8, Leave and Attendance, February 1967, Section 3580, "Advance of Sick Leave", and Sections 3680 – 3684, "Maternity Leave".

124. Exhibit 17A attached hereto is a true and correct copy of an Equal Employment Opportunity Commission Memorandum to Employees, dated 12-20-72, re "Advanced Sick Leave". Exhibit 17B attached hereto is a true and correct copy of an EEOC Memorandum to Employees, dated 1-26-73, re "Advance Sick Leave". (Exhibit 17C attached hereto is a true and correct copy of EEOC Notice No. N-566, dated 5-25-73, re "Guidelines on Advance of Sick Leave".) Exhibit 17D attached hereto is a true and correct copy of Section 911, pages 1-6, of the EEOC Manual, dated November 15, 1968 and July 25, 1969, re "Leave".

125. Exhibit 18 attached hereto is a true and correct copy of the United States Department of Justice, "Leave Policy and Regulations", Memo 344, March 8, 1963, Sections dealing with Maternity Leave and Granting Advance Sick Leave.

126. Exhibit 19 attached hereto is a true and correct copy of the United States Department of Agriculture, Forest Service Manual, "Title 6100 - Personnel Management", Section 6163.53, Maternity Leave (Oct. 1971, Amendment No. 59).

127. Exhibit 20 attached hereto is a true and correct copy of American Postal Workers Union Plan 1973 Brochure, BRI 41-206, U.S. Civil Service Commission.

128. Exhibit 21 attached hereto is a true and correct copy of Administrative Instructions for the Office of the Secretary of Defense, Joint Chiefs of Staff, Court of Military Appeals, Defense Security Assistance Agency. Number 67, May 27, 1969.

129. Exhibit 22 attached hereto is a true and correct copy of Group Health Association 1973 Brochure, BRI 41-41, U.S. Civil Service Commission.

130. Exhibit 23 attached hereto is a true and correct copy of NALC Health Benefit Plan 1973 Brochure, BRI 41-51, U.S. Civil Service Commission.

131. Exhibit 24 attached hereto is a true and correct copy of AFGE Health Benefit Plan 1973 Brochure, BRI 41-26, U.S. Civil Service Commission.

132. Exhibit 25 attached hereto is a true and correct copy of Department of Health, Education and Welfare Employee Leave Benefits, dated 11/22/65, Chapter IV,

Guide 5, Supplement 1, item 13 "Advance of Sick Leave" and item 23, "Maternity Leave".

133. Exhibit 26 attached hereto is a true and correct copy of Library of Congress Regulations dated March 8, 1971, Subject: Sick Leave, LCR 2015-5.

134. Exhibit 27 attached hereto is a true and correct copy of pages 276-277 of a book entitled "Sociology", by Broom & Selznick, published by Harper & Row (4th Ed.).

135. Exhibit 28 attached hereto is a true and correct copy of GE Health Bulletin H64-5, "Termination of Active Work During Pregnancy", dated July 7, 1964.

136. Exhibit 29 attached hereto is a true and correct copy of GE Health Bulletin on Pregnancy, Tab: 5, No. 5.8, Issued 11-5-71.

137. Exhibit 30 attached hereto is a true and correct copy of GE Health Bulletin on Pregnancy, Tab: 5, No. 5.8, Issued 5-5-72.

138. Exhibit 31 attached hereto is a true and correct copy of Instruction No. 9.06, issued to non-supervisory employees on 11-10-71 by the Manager-Employee & Community Relations at GE's Salem, Virginia plant.

139. Exhibit 32 attached hereto is a true and correct copy of a Study by Morton D. Miller, entitled "Group Weekly Indemnity Table Study", reprinted from the Transactions of the Society of Actuaries, Volume III (1951).

140. Exhibit 33 attached hereto is a true and correct copy of pages 78-101 of the 1962 Reports of Mortality

and Morbidity Experience of the Transactions of the Society of Actuaries.

141. Exhibit 34 attached hereto is a true and correct copy of pages 120-128 of the 1966 Reports of Mortality and Morbidity Experience of the Transactions of the Society of Actuaries.

142w Exhibit 35 attached hereto is a true and correct copy of pages 190-202 of the 1971 Reports of Mortality and Morbidity Experience of the Transactions of the Society of Actuaries.

143. During 1970, GE's experience, by sex, with respect to claims under its weekly sickness and accident disability insurance coverage was as follows:

	Male	Female
No. of claims (new)	19,045	15,509
Average duration of claim	48 days	52 days
No. of new claims per thousand employees	77	173
Average No. of employees covered	246,492	89,705
Total benefits paid	$11,279,110	$7,405,790
Average cost per insured employee of total benefits paid	$45.76	$82.57

144. During 1971, GE's experience, by sex, with respect to claims under its weekly sickness and accident disability insurance coverage was as follows:

	Male	Female
No. of claims (new)	22,987	17,719
Average duration of claim	47 days	52 days
No. of new claims per thousand employees	99	217
Average No. of employees covered	231,026	81,469
Total benefits paid	$14,343,000	$9,191,195
Average cost per insured employee of total benefits paid	$62.08	$112.91

145. GE Employment statistics with respect to childbirth (excluding data concerning ectopic pregnancies, caesarian births, abortions and miscarriages) disclose that the duration of pregnancy absences prior to the date of delivery for employees at all GE plants and locations is as follows:

Weeks Duration of Pregnancy Absence	1970	Cumulative Percent	1971	Cumulative Percent
Under 1 week	86		68	
1 week but less than 2	46		52	
2 weeks but less than 3	63		61	
3 weeks but less than 4	76		74	
4 weeks but less than 5	124	12%	106	15%
5 weeks but less than 6	153		91	
6 weeks but less than 7	195		146	
7 weeks but less than 8	211	29	167	31
8 weeks but less than 9	277		206	
9 weeks but less than 10	246	45	185	47
10 weeks but less than 11	231		162	
11 weeks but less than 12	229	59	165	60
12 weeks but less than 13	275		210	
13 weeks but less than 14	184		153	
14 weeks but less than 15	134	78	102	79

Weeks Duration of Pregnancy Absence	1970	Cumulative Percent	1971	Cumulative Percent
15 weeks but less than 16	117		93	
16 weeks but less than 17	84		58	
17 weeks but less than 18	62		51	
18 weeks but less than 19	52		42	
19 weeks but less than 20	47	89	36	90
20 weeks but less than 21	46		25	
21 weeks but less than 22	42		32	
22 weeks but less than 23	41		23	
23 weeks but less than 24	37		16	
24 weeks but less than 25	14		16	
25 weeks but less than 26	25		20	
26 weeks but less than 27	23		19	
27 weeks but less than 28	27		19	
28 weeks but less than 29	23		15	
29 weeks but less than 30	14		13	
30 weeks but less than 31	16		10	
31 weeks but less than 32	12		17	
32 weeks but less than 33	16		9	
33 weeks and over	33	100%	14	100%
TOTAL	3,261		2,476	

146. GE employment statistics with respect to ectopic pregnancies and caesarian births disclose that the duration of pregnancy absences prior to the date of delivery for employees at all GE plants and locations is as follows:

	1970	1971
Under 1 week	10	5
1 week but less than 2	1	3
2 weeks but less than 3	6	3
3 weeks but less than 4	3	–
4 weeks but less than 5	4	3
5 weeks but less than 6	7	3

	1970	1971
6 weeks but less than 7	9	9
7 weeks but less than 8	5	11
8 weeks but less than 9	16	14
9 weeks but less than 10	9	10
10 weeks but less than 11	9	10
11 weeks but less than 12	6	7
12 weeks but less than 13	6	5
13 weeks but less than 14	6	4
14 weeks but less than 15	13	10
15 weeks but less than 16	5	6
16 weeks but less than 17	6	3
17 weeks but less than 18	1	2
18 weeks but less than 19	1	3
19 weeks but less than 20	3	2
20 weeks but less than 21	1	1
21 weeks but less than 22	1	1
22 weeks but less than 23	1	1
23 weeks but less than 24	1	1
Over 24 weeks	10	8
TOTAL	140	125

147. GE employment statistics with respect to abortions and miscarriages disclose that the duration of pregnancy absences prior to the date of delivery for employees at all GE plants and locations is as follows:

	1970	1971
Under 1 week	83	123
1 week but less than 2	16	7
2 weeks but less than 3	8	10
3 weeks but less than 4	4	5
4 weeks but less than 5	6	5
5 weeks but less than 6	5	3
6 weeks but less than 7	1	3

	1970	1971
7 weeks but less than 8	5	4
8 weeks but less than 9	6	5
9 weeks but less than 10	2	2
10 weeks but less than 11	2	2
11 weeks but less than 12	1	4
12 weeks but less than 13	1	1
13 weeks but less than 14	1	1
14 weeks but less than 15	–	–
15 weeks but less than 16	–	2
16 weeks but less than 17	–	1
17 weeks but less than 18	2	–
18 weeks but less than 19	–	1
19 weeks but less than 20	1	1
20 weeks but less than 21	1	–
21 weeks but less than 22	–	–
22 weeks butless than 23	1	–
23 weeks but less than 24	1	–
TOTAL	147	180

149. S&A benefits for pregnancy absences during the period approximately 1939-1948 were paid only to employees in certain GE plants. Records relating to coverage in those years are incomplete, but it is believed that the following plants were covered by those provisions:

Plants of the Lamp Department

Electronics Department Plants:

Easthampton (Mass.) Tube Worker
Ken-Rad Division
Wabash (Ind.) Cabinet Works

Appliance and Merchandise Department Plants:

Lowell, Mass., Plant
Poughkeepsie, New York, Plant

York (Pa.) Works
Boundary Avenue Plant (York)
White Plains, New York, Plant
Saugerties, New York, Plant
Millerton, New York, Plant
New Kensington, Pa., Plant
Allentown, Pa., Plant
Electric Sink & Dishwasher Unit (Scranton, Pa.)
Trenton, New Jersey, Plant
Mt. Vernon, New York, Plant
Norfolk, Connecticut, Plant

During that period of time there was no company-wide GE group disability insurance plan and different company components were privileged to adopt insurance coverage as desired.

/s/ RUTH WEYAND
Counsel for Plaintiffs

/s/ STANLEY R. STRAUSS
Counsel for Defendant

Dated: July 21, 1973.

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND VIRGINIA

[Title omitted in printing]

* * * * *

PLAINTIFF'S INTERROGATORIES TO DEFENDANT

[Filed September 25, 1972]

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, as amended, the defendant is hereby requested to answer each of the following interrogatories separately and fully in writing under oath, within thirty days after the service of these interrogatories. These interrogatories shall be deemed continued to the extent required by Rule 26(e) of the Federal Rules of Civil Procedure.

1. List the total number of women working for General Electric.

2. List the number of women working for General Electric plants between the ages of 18-45.

3. List the number of women working for General Electric between the ages of 18-45, at each of its plants located in Virginia.

4. List the number of pregnancies, miscarriages and childbirths respectively of employees reported at each General Electric plant for each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

5. List the total number of pregnancies, miscarriages and childbirths respectively of employees at all General Electric plants for each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

6. List the amount of time each women employee of General Electric has been off from work because of pregnancy, miscarriage or childbirth since August, 1971.

7. List the number of cases, women have been given weekly non-occupational sickness and accident benefit payments because of abortions in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

8. List the amount of time each woman employee of General Electric has been off from work because of an abortion who has received the above disability benefits.

9. Has any woman employee been given weekly non-occupational sickness and accident benefit payments because of complications resulting from pregnancy, miscarriage or childbirth. If so, list the number of women receiving such benefits in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

10. List the amount of time each woman employee was off from work who had complications and received disability benefits as stated in question 9.

11. List the number of women employees at each of the General Electric plants who do not return to work with General Electric after a pregnancy, miscarriage or childbirth in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

12. List the total number of women employees of General Electric who do not return to work with General Electric after a pregnancy, miscarriage, or childbirth in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

13. List the number of women employees at each of the General Electric plants who do return to work with General Electric after a pregnancy, miscarriage or childbirth in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

14. List the total number of women employees of General Electric who return to work with General Electric after a pregnancy, miscarriage, or childbirth in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

15. List the number of men at each General Electric plant who receive weekly non-occupational sickness and accident benefit payments because of alcoholism in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

16. List the amount of time each of these men were off from work because of alcoholism in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

17. List the number of men at each General Electric plant who receive weekly non-occupational sickness and accident benefit payments because of drugs in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

18. List the amount of time each of these men were off from work because of drugs in each of the

following years: 1967, 1968, 1969, 1970, 1971, and 1972.

19. List the number of men at each General Electric plant who receive weekly non-occupational sickness and accident benefit payments because of venereal disease in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

20. List the amount of time each of these men were off from work because of venereal disease in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

21. List the number of men at each General Electric plant who receive weekly non-occupational sickness and accident benefit payments because of attempted suicide in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

22. List the amount of time each of these men were off from work because of attempted suicide in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

23. List the number of men at each General Electric plant who receive weekly non-occupational sickness and accident benefit payments because of fighting in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

24. List the amount of time each of these men were off from work because of fighting in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

25. List the number of men at each General Electric plant who receive weekly non-occupational sickness and accident benefit payments because of lung cancer in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

26. List the amount of time each of these men were off from work because of lung cancer in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

27. List the number of men at each General Electric plant who receive weekly non-occupational sickness because of emphysema in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

28. List the amount of time each of these men were off from work because of emphysema in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

29. List the number of men at each General Electric plant who receive weekly non-occupational sickness and accident benefit payments because of sterilization in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

30. List the amount of time each of these men were off from work because of sterilization in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

31. List the number of men at each General Electric plant who receive weekly non-occupational sick-

ness and accident benefit payments because of hernias in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

32. List the amount of time each of these men were off from work because of hernias in each of the following years: 1967, 1968, 1969, 1970, 1971, and 1972.

33. State the monthly average number of employees insured for sickness and accident insurance by age and by sex.

34. State the average monthly number of employees insured for hospital, medical, and prescription drug expense by age, sex, number of covered dependents and number of eligible children.

35. State the number of claims paid for hospital, medical and prescription drug expense, amount and average benefit by age and sex of employee (including and excluding spouse and eligible children).

36. State the number of claims paid for maternity services (including pre-natal and post-natal care and initial pediatric examination of newborn child), amount and average benefit by age of employee, showing whether payment is for service for employee or for spouse of employee.

37. State the total annual cost to General Electric Company of all fringe benefits, including pensions, supplemental unemployment insurance, life insurance, sickness and accident insurance, extended disability insurance, hospital, medical and prescription drugs, for each of the past 5

calendar years, for all employees by sex, and average cost per employee by sex.

38. State the total annual payroll of General Electric Company for each of the past 5 calendar years, for all employees and by sex, and average annual wage rate per employee and by sex.

/s/SEYMOUR DUBOW
Seymour Dubow
Suite 502, Insurance Building
10 South Tenth Street
Richmond, Virginia 23219

Ruth Weyand
1126 16th Street, N.W.
Washington, D. C. 20036

Counsel for Plaintiffs

Dated: September 21, 1972

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND, VIRGINIA

[Title omitted in printing]

* * * * *

PLAINTIFF'S THIRD INTERROGATORIES
TO DEFENDANT
[Filed December 29, 1972]

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, as amended, the defendant is hereby requested to answer each

of the following interrogatories separately and fully in writing under oath, within thirty days after service of these interrogatories.

39. Does the description of the self-insurer status of the defendant GE as agreed to by the defendant GE in paragraph 6 of the Agreed Findings and Conclusions *IUE v. GE*, U.S.D.C.S.D.N.Y. No. 70 Civ. 2893 (MP), 337 F.Supp. 817, 79 LRRM 2403, a copy of the first 10 paragraphs of which is attached hereto as Exhibit A, represent the true facts respecting the relationship of defendand GE and Metropolitan Life Insurance Company insofar as relevant to this case at all times here material? If not, state all the other facts respecting the relationship between the defendant GE and Metropolitan Life Insurance Company which are relevant. If there has been any material change since the agreement of defendant GE to paragraph 6 of said Agreed Findings and Conclusions, state the date or dates on which the change or changes occurred, together with all the pertinent facts.

40. Did the Employee & Community Relations Instructions, bearing issue date 2-1-68, a copy of which is attached hereto marked Exhibit B, state correctly the practice followed by defendant GE at its Salem, Virginia plant in February 1968? If so, for how long did this continue to be the practice followed at the Salem, Virginia plant? If there has been a change in applicable practice, state when the change occurred and what new practices have been followed from the date of the change to the present time.

41. Name the plants of the defendant GE which follow the practice set out in attached Exhibit B. Name the plants which do not follow the practice set out in Exhibit B, and state the practice with respect to leave for pregnancy followed at each such plant at the present time. With respect to

plants which followed the practice set out in Exhibit B or a similar policy at one time but have since changed, state the date or dates on which changes occurred.

42. State the names of the employees, the plant at which they were employed before they went on leave because of pregnancy and all information with respect to each such employee which the defendant GE has received in response to its Employee Benefits Information communication signed by E.S. Willis and dated April 28, 1972, a copy of which is attached hereto marked Exhibit C.

43. Does the figure of 84,056 which defendant GE stated in its Answer to Interrogatory No. 1, include all women who on December 31, 1971 were employed in executive, supervisory and clerical positions in all the offices, plants and service shops of the defendant GE? If not, state the total number of women employed by defendant GE on December 31, 1971 without limitation as to the type of employment.

44. Does the figure of 55, 314 which the defendant GE stated in its Answer to Interrogatory No. 2 include all the women between the ages of 18 and 45 who on December 31, 1971 were employed in executive, supervisory and clerical positions in all the offices, plants and service shops of the defendant GE? If not, state the total number of women between the ages of 18 and 45 employed by defendant GE on December 31, 1971 without limitation as to type of employment.

45. At each plant at which the defendant GE permits women employees to continue at work throughout pregnancy, to the extent they are physically able, instead of requring them to go on leave at an arbitrarily determined time, list the names of the employees who were permitted to continue

to work after the seventh month of pregnancy and state as to each such employee the name of the plant where employed, if she returned to work and the period of time she was off work after childbirth.

46. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employe was absent because of alcoholism? If so, does the defendant GE have an established policy of making such payments?

47. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent for purposes of following a program for the cure of alcoholism? If so, does the defendant GE have an established policy of making such payments?

48. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent because of drugs? If so, does the defendant GE have an established policy of making such payments?

49. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent for purposes of following a program for the cure of a drug problem? If so, does the defendant GE have an established policy of making such payments?

50. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent because of venereal disease? If so, does the defendant GE have an established policy of making such payments?

51. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent because of an attempted suicide? If so, does the defendant have an established policy of making such payments?

52. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent because of an injury incurred in a fight? If so, does the defendant GE have an established policy of making such payments?

53. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent because of lung cancer? If so, does the defendant GE have an established policy of making such payments?

54. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent because of emphysema? If so does the defendant GE have an established policy of making such payments?

55. Has defendant GE ever padi sickness and accident insurance benefits for periods during which a male employee was absent because of sterilization? If so, does the defendant GE have an established policy of making such payments?

56. Has defendant GE ever paid sickness and accident insurance benefits for periods during which a male employee was absent because of a hernia? If so, does the defendant GE have an established policy of making such payments?

57. State the number of claims, average number of days of absence for injury or disability and average sickness and accident benefits paid by defendant GE by sex for the years 1970, 1971 and 1972.

58. Did the defendant GE pay any of its employees non-occupational sickness and accident benefits or provide any other form of maintainance in whole or part of income during absences from work due to non-occupational sickness and accident prior to the day its collective bargaining agreements

with the plaintiff IEU contained such provisions? If so, state the date or approximate date when such benefits were first paid and the criteria for determining to whom paid and the amount and duration of the benefit. If there were changes between the time such benefits were first paid and the time that its collective bargaining agreements with the plaintiff IUE contained such provisions, state the dates and substance of such changes.

59. Has the defendant GE ever paid any of its employees sickness and accident benefits or any other form of maintainance in whole or part of income during a period or periods of absence from work due to pregnancy, miscarriage, childbirth, or complications arising therefrom. If so, state the date or approximate date or dates when such benefits were paid and the criteria for determing to whom paid and the amount and duration of all such benefits paid.

60. When did the defendant GE first include in its collective bargaining agreement with the plaintiff IUE or any of its locals an obligation to pay any non-occupational sickness and accident benefits?

61. When did the plaintiff IUE or any of its locals first propose to the defendant GE that sickness and accident benefits be paid to employees absent from work on account of pregnancy, miscarriage, childbirth, or complications arising therefrom? State the dates or approximate dates of all such proposals and the contents of such proposals.

62. State all the reasons upon which the defendant has relied in the past and now relies in refusing to pay non-occupational sickness and accident benefits for periods of time in which employees are disabled from work due

to pregnancy, miscarriage, childbirth, or complications therefrom.

/s/ SEYMOUR DUBOW
Seymour DuBow, Esquire
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Winn Newman
Ruth Weyand
1126 16th Street, N.W.
Washington, D. C. 20036

Counsel for Plaintiffs

Dated: December 30, 1972

- - - - - - - - - -

EXHIBIT A.

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK

INTERNATIONAL UNION OF ELECTRICAL, RADIO AND MACHINE WORKERS, AFL-CIO-CLC,

Plaintiff,

-against-

GENERAL ELECTRIC COMPANY and METROPOLITAN LIFE INSURANCE COMPANY,

Defendants.

Civil Action No.
70 Civ. 2893 (MP)

AGREED FINDINGS AND CONCLUSIONS

1 1. The plaintiff (hereinafter "Union") is a "labor organization" engaged in representing "employees" in an "industry affecting commerce," as said terms are defined in Sections 2 and 501 of the Labor-Management Relations Act of 1947, as amended.

2. The defendant General Electric Company (hereinafter "Company"), a New York corporation with its principal office and place of business in the Southern District of New York, is an "employer" in an "industry affecting commerce," as said terms are defined in Sections 2 and 501 of the Labor-Management Relations Act of 1947, as amended.

3. Effective as of October 3, 1966, the Company and the Union entered into a national collective bargaining agreement (hereinafter called the "1966 National Agreement") which provided for and governed wage increases,

hours and other terms and conditions of employment of approximately 90,000 of the Company's employees at locations throughout the United States, and which National Agreement by its terms continued in full force and effect to and including October 26, 1969.

4. Effective as of October 3, 1966, the Company and the Union entered into various other agreements covering the terms and conditions of employment of the represented employees, which other agreements included, but were not limited to, a Pension and Insurance Agreement. The portion of the Pension and Insurance Agreement which provided for insurance coverage was an Insurance Plan negotiated between the parties and dated October 3, 1966. Said Plan was attached to and made part of the Pension and Insurance Agreement as Exhibits B and B-1.

5. The 1966 Insurance Plan provided, *inter alia*, for weekly sickness and accident coverage for participating employees who became totally disabled as a result of non-occupational sickness or accident with weekly benefits equal in amount to one-half of a disabled employee's normal straight-time weekly earnings up to a maximum weekly benefit of $100, commencing on the eighth day of the employee's total disability – or the first day of his confinement in a hospital as a bed patient, if earlier – and continuing during such total disability up to a maximum of 26 weeks. Said coverage (as well as other coverages provided in the Insurance Plan including life insurance, accidental death or dismemberment insurance and comprehensive medical expense insurance) was provided subject to certain conditions and limitations.

6. During the material period since 1966 the Company undertook primary responsibility to furnish the weekly

sickness and accident coverage under the Insurance Plan to certain Union-represented employees and was in effect a self-insurer. With respect to coverage outside of California during this period, the Company obtained an insurance policy covering weekly sickness and accident benefits, among others, whereunder a tentative initial premium was paid to Metropolitan Life Insurance Company (hereinafter "Metropolitan Life") subject to later adjustment in light of actual experience. In California, the Company made no arrangement with any insurance carrier with respect to its weekly sickness and accident undertaking under the 1966 Insurance Plan. With respect to weekly sickness and accident coverage under the Insurance Plan for certain Union-represented employees in California, the Company was a self-insurer in form and in effect.

7. The 1966 Insurance Plan, with respect to weekly sickness and accident insurance during a strike period, provided as follows:

> "If you cease work because of a strike, your insurance coverage will automatically terminate at the end of the period for which your contributions have been paid. However, the Company may, in its discretion, make appropriate arrangements to continue your coverage under this Plan during such strike.
>
> "In any event, Weekly Sickness and Accident coverage will not be continued beyond 31 days from the last day for which your contirbutions are paid and will not be reinstated until you return to active work."

8. Under the 1966 National Agreement, Union-represented employees had the right to strike during the term

of such agreement over certain fully processed but unsettled local grievances.

9. During the terms of the 1966 National Agreement, the 1966 Pension and Insurance Agreement and the 1966 Insurance Plan, certain Union-represented employees at various Company locations did engage in such contractually-permitted local grievance strikes which lasted for more than 31 days.

10. During the course of such grievance strikes, certain striking employees participating in the Insurance Plan filed claims with the Company claiming disability by reason of non-occupational sickness or accident occuring more than 31 days after the last day for which contributions had been deducted from the employees' pay prior to the strike, and such claims were denied.

EXHIBIT B.

EMPLOYEE & COMMUNITY RELATIONS INSTRUCTION

Supersedes	Issue Date	Instruction No.
4-1-61	2-1-68	ER-2.31

Subject	Page No.
PERSONAL ILLNESS - PREGNANCY	1

The time at which a pregnant employee should terminate active work is a variable one depending on such factors as her general health, the nature of the work she does and the general nature of the working conditions and safety factors in the area in which she works.

It is generally agreed by obstetricians that women may continue to work through the sixth month of pregnancy when the pregnancy is uncomplicated and may resume work at the end of eight weeks following termination of pregnancy. *It will therefore be the policy of the Department that pregnant employees will be required to terminate active work at the end of the sixth month of pregnancy.* The employee may terminate active work any time before the sixth month if she so elects.

It is the Supervisor's responsibility to refer the employee to the plant Dispensary when he learns that the employee is pregnant. The employee will be required to bring a statement from her personal physician indicating the expected termination date of pregnancy.

After review by the Plant Physician, the nurse will prepare a letter addressed to the employee's Supervisor with a copy to the Personnel Office giving the last day that the employee can work (end of 6th month of pregnancy).

The employee's status is indicated as "personal illness" during such absence and is covered by the current rules relating to such absences.

The employee is not required to keep her supervisor advised as to her condition until eight weeks after termination of pregnancy. Failure to resume work after the eight-week period will terminate service unless there is lack of work, illness, complication from pregnancy or some other valid reason, in which case the employee will be required to notify her supervisor once a month, and this reason will then become the reason for absence on employment and payroll records.

In the event the absence following termination of pregnancy exceeds eight weeks due to reasons of health, the employee

must furnish upon her return to work a statement from her physician indicating the reason for the absence. This statement will be forwarded to the dispensary for review and will be filed in the employee's personnel folder.

After the lapse of six weeks after termination of the pregnancy, it is permissible to reinstate a woman who has been out due to pregnancy but only on explicit direction of the employee's physician and with the approval of the plant physician.

GENERAL ELECTRIC INDUSTRY CONTROL DEPT. SALEM, VA. U.S.A.	Issued By Manager-Employee and Community Relations	Responsibility Of Specialist-Benefits, Health, Safety & Security

EXHIBIT C.

EMPLOYEE BENEFITS INFORMATION

CORPORATE EMPLOYEE RELATIONS
NEW YORK, NEW YORK

No. 72-12

April 28, 1972

Pregnancy Benefits in Insurance Plan

In connection with a pending lawsuit alleging discrimination by the Company because weekly disability benefits are not payable under the Insurance Plan for pregnancy, it will be necessary to collect certain information on absences due to pregnancy.

1. Whenever a female employee leaves because of pregnancy, the following should be ascertained to the extent possible:

   a. Is the employee disabled (physically unable to perform her job) at the date of leaving.

      (Many such employees leave early as a matter of personal convenience to prepare for the birth, though they are not disabled)

   b. If not so disabled, an estimate should be made of the probable later date disability occured.

   c. The expected date of delivery.

2. About 3 weeks after the expected date of delivery (or actual date if known) a determination should be made as to whether disability has, in fact, terminated. (No effort is implied by this to require return.) A record should be made of the results of this inquiry.

3. At a point, 8 weeks after delivery, a record should be made as to:

   a. Has employee returned to work, and if so, what is her date of return.

   b. If employee has not returned

      (a) Has she terminated service?

      (b) Has she been granted a leave of absence? If on a leave, a record should be made as to whether the return is delayed for other reasons, and the nature of the reasons. In the event return is delayed for disability, a later record should be made as to date disability ceases.

The above data will be necessary for all pregnancy cases on absences beginning after January 1, 1972 (retroactive data should be compiled to the fullest extent possible.) Personnel Accounting Operation will ask Personnel Accounting components to report this information and ancillary data for each such absence early in 1973.

Dist. 50ABGH, 58A, 50M,
40AB, Keys 1, 4, 7

E. S. Willis

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND VIRGINIA

[Title omitted in printing]

* * * * *

PLAINTIFFS' FOURTH INTERROGATORIES
TO DEFENDANT
(Filed May 24, 1974)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, as amended, the defendant is hereby requested to answer each of the following interrogatories separately and fully in writing under oath, within thirty days after service of

63. Are any of the 1592 females specified in the Supplemental Answer to Interrogatory No. 12 in Revised Answer by Defendant General Electric Company to Plaintiffs' Interrogatories as not having returned to work with General Electric after a

pregnancy, miscarriage or childbirth in 1970 presently employed by General Electric? If so, specify how many and the average period of time elapsing between the date they went on leave for pregnancy, miscarriage or childbirth and their first return to work for General Electric Company.

64. Did any of the 1592 females specified in the above-mentioned Supplemental Answer to Interrogatory No. 12 who are not presently employed by General Electric return to work for General Electric at any time between their absence for pregnancy, miscarriage or childbirth and the present time? If so, specify how many and the average period of time elapsing between the date they went on leave for pregnancy, miscarriage or childbirth and their first return to work for General Electric.

65. Are any of the 1,147 females specified in the Supplemental Answer to Interrogatory No. 12 in Revised Answer by Defendant General Electric Company to Plaintiffs' Interrogatories as not having returned to work with General Electric after a pregnancy, miscarriage or childbirth in 1971 presently employed by General Electric? If so, specify how many and the average period of time elapsing between the date they went on leave for pregnancy, miscarriage or childbirth and their first return to work for General Electric.

66. Did any of the 1,147 females specified in the above mentioned Supplemental Answer to Interrogatory No. 12 who are not presently employed by General Electric return to work for General Electric at any time between their absence for pregnancy, miscarriage or childbirth and the present time? If so, specify how many and the average period of time elapsing between the dates they went on leave for pregnancy, miscarriage or childbirth and their first return to work for General Electric.

67. Does the defendant General Electric follow the practice of terminating each female who is absent because of pregnancy, miscarriage or childbirth at the end of the eighth week following childbirth unless the female secures an extension of her leave based on proof that her physician has advised her not to return to work? If a different policy is followed, please state what policy is followed respecting the termination of employment of females who do not return to work within eight weeks after childbirth.

68. Has General Electric ever notified its employees that a pregnant female may continue to work until the onset of delivery unless her physician advised her to leave work at an earlier date? If General Electric has so notified its employees, state by which method such notice was given and on what dates.

69. Has General Electric ever notified its employees that subsequent to childbirth an employee may return to work as soon as her physician advises her that she may return to work?If General Electric has so notified its employees, state by what method such notice was given and on what dates.

70. With respect to the answer to Interrogatory No. 59, were sickness and accident benefits for pregnancy absences during the period approximately 1929-1948 paid to employees throughout the General Electric system or only to employees at one or more specified plants? If the latter, specify what plant or plants and the reasons for treating the employees at such plant or plants differently than other General Electric employees.

71. With respect to the answer to Interrogatory No. 59, were sickness and accident benefits for pregnancy absences during the period approximately 1939-1948 paid to

both hourly and salaried employees or only to one or more specified types of employees? If paid only to one or more specified types of employees, specify what type of employee such payments were made to.

72. With respect to the answer to Interrogatory No. 57, would it be correct to divide the $11,279,110 total benefits paid to males in 1970 by the number of claims of males, 19,045, to get an average benefit paid for claim of a male as $592.23 which being paid for 48 days amounts to $12.33 per day or $86.31 per week? If these do not represent correctly the average amount of benefits per claim for males paid in 1970, specify correct figures.

73. With respect to the answer to Interrogatory No. 57, would it be correct to divide the $7,405,790 total benefits paid to females in 1970 by the number of claims of females, 15,509, to get an average benefit paid per claim of a female as $477.51, which being paid for 52 days amounts to $9.18 per day or $64.26 per week? If these do not represent correctly the average amount of benefits per claim per female paid in 1970, specify correct figures.

74. With respect to the answer of Interrogatory No. 57, would it be correct to divide the $14,343,000 total benefits paid to males in 1971 by the number of claims of males, 22,987, to get an average benefit paid per claim of males as $623.95, which being paid for 47 days amounts to $13.27 per day or $92.89 per week? If these do not represent correctly the average amount of benefits per claim for males paid in 1971, specify correct figures.

75. With respect to the answer to Interrogatory No. 57, would it be correct to divide the $9,191,195 total benefits paid to females in 1971 by the number of claims

of females, 17,719, to get an average benefit paid for claim of a female as $518.71, which being paid for 52 days amounts fo $9.97 per day or $69.79 per week? If these do not represent correctly the average amount of benefits per claim per female in 1971, specify correct figure.

76. Has defendant GE ever paid sickness and accident insurance benefits for a period or periods during which an employee was absent because of elective plastic surgery? If so, does the defendant GE have an established policy of making such payments?

77. Has defendant GE ever paid sickness and accident insurance benefits for periods during which an employee was absent because the employee was undergoing a program of psychiatric care? If so, does the defendant GE have an established policy of making such payments?

78. Has defendant GE ever refused to pay sickness and accident insurance benefits for a period or periods during which a male employee was absent because of any cause which admittedly disabled him from work? If so, specify all such causes, state the reason for the refusal as to each cause, and whether the defendant GE has an established policy of refusing so to pay.

79. Does the attached Exhibit B constitute an accurate statement of the turnover experience of the defendant GE as therein specified? If not, specify the accurate figure with respect to each figure which the defendant GE claims is inaccurate.

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Richmond, Virginia 23219

Winn Newman
Ruth Weyand
1126 16th Street, N.W.
Washington, D. C. 20036

Attorneys for Plaintiffs

May 22, 1973

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EMPLOYMENT DATA ON IUE-REPRESENTED

EMPLOYEES BY PLANT LOCATION

AS OF THE LAST NORMAL WEEK OF THE FISCAL MONTH OF DECEMBER 1972

Location	No. of Employees Represented by IUE Total	Hrly	Sal.	No. on Layoff-Less Than One Year Service Total	Hrly	Sal.	No. on Layoff-More Than One Year Service Total	Hrly	Sal.	Average Hours Worked*	Average Straight Time Hourly Earnings*
Anniston, O.	64	64	-							45.0	3.661
Athens, O.	478	478	-	25	25	-	30	30	-	39.8	3.457
Bridgeport, Conn.	2148	2148	-							41.4	3.804
Bridgeville, Pa.	136	136	-							45.2	3.915
Burgettstown, O.	352	352	-	3	3	-	-	-	-	38.7	3.418
Burlington, Vt.	656	656	-	4	4	-	102	102		38.3	3.886
Cleveland, O.	1895	1895	-	10	10	-	-	-	-	43.0	4.168
DeKalb, Ill.	571	571	-							44.9	3.953
Dover, O.	120	120	-	5	5	-	-	-	-	40.1	3.760
Euclid, O.	492	492	-	2	2	-	-	-	-	41.1	4.259
Everett, Mass.	1165	1121	44	5	5	-	-	-	-	37.1	5.380
Fitchburg, Mass.	497	439	58	3	3	-	-	-	-	38.4	4.256
Ft. Wayne, Ind.	5912	5614	298							40.1	4.261
Hickory, N. C.	1276	1276	-							39.7	3.440
Holland, Mich.	922	922	-	8	8	-	-	-	-	38.6	3.540
Houston, Tex.	77	77	-							53.4	3.909
Jonesboro, Ark.	962	962	-							37.8	3.247
Lebanon, Ind.	445	445	-							39.3	3.198
Louisville, Ky.	15904	15872	32	8	8	-	-	-	-	41.6	4.034
Memphis, Tenn.	1140	1140	-							38.4	3.583
Newark, N.J.	506	468	38	-	-	-	-	-	-	40.2	3.555
Nutley, N.J.	36	36	-	-	-	-	-	-	-	41.3	3.755
Oakland, Calif.	85	83	2	-	-	-	-	-	-	40.0	4.077
Philadelphia, Pa.	4552	3985	567	165	161	4	57	57	-	40.4	4.562
Pittsfield, Mass.	5160	4641	519	35	33	2	161	129	32	41.1	4.235
Providence, R. I.	832	832	-	29	29	-	-	-	-	38.8	3.547

*The figures listed are not limited to the IUE bargaining unit but are applicable to all hourly employees at the locations indicated with the exception of Shelbyville for which the figures shown are applicable to the Wire Mill only.

EXHIBIT B-8

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EMPLOYMENT DATA ON IUE-REPRESENTED

EMPLOYEES BY PLANT LOCATION

AS OF THE LAST NORMAL WEEK OF THE FISCAL MONTH OF DECEMBER 1972

Location	No. of Employees Represented by IUE Total	Hrly	Sal.	No. on Layoff-Less Than One Year Service Total	Hrly	Sal.	No. on Layoff-More Than One Year Service Total	Hrly	Sal.	Average Hours Worked*	Average Straight Time Hourly Earnings*
Rome, Ga.	1010	1010	-	2	2	-	10	10	-	39.6	4.510
Salem, Va.	2313	2313	-	-	-	-	1	1	-	46.1	3.495
San Jose, Calif.	264	264	-							41.3	4.530
Schenectady, N.Y.	12063	12063	-	6	6	-	1	1	-	40.0	4.287
Shelbyville, Ind.	157	157	-							40.2	3.638
Somerset, Ky.	105	105	-	1	1	-	-	-	-	42.3	3.285
Springfield, N.J.	140	140	-							39.6	4.550
Syracuse, N.Y.	2939	2939	-	26	26	-	698	698	-	41.0	3.723
Tell City, Ind.	1107	1107	-	-	-	-	75	75	-	39.4	3.211
Tiffin, O.	1290	1290	-							38.4	3.745
Trenton, N.J.	602	594	8							37.7	3.836
Tyler, Tex.	1563	1563	-							39.4	3.534
Warren, O.	930	930	-							39.0	3.816
Waterford, N.Y.	604	501	103							42.2	4.095
West Lynn, Mass.	8695	7544	1151	90	57	33	15	12	3	40.1	4.615
Youngstown, O.	711	711	-							41.7	3.693
Offices **	2408	1875	533	29	28	1	-	-	-		
TOTAL	83385	80012	3373	466	436	40	1150	1115	35		

*The figures listed are not limited to the IUE bargaining unit but are applicable to all hourly employees at the locations indicated with the exception of Shelbyville for which the figures shown are applicable to the Wire Mill only.

**Offices other than plant locations.

EXHIBIT B-9

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3/16/73

EXHIBIT B-10

Data on Number of New Employees, Number Laid Off, Number recalled from Layoff and Total Number of Employees whose service was terminated at General Electric Plant Locations at which the principal production and maintenance of salaried employees for the three-month period ending December, 1972.

Location	New Employees	Layoffs	Recalls From Layoffs	Terminations* Hrly.	Sal.
Andover, O.	12	-	-	8	
Austintown, O.	63	-	-	10	
Bridgeport, Conn.	94	27	24	45	
Bridgeville, Pa.	1	-	-	1	
Bucyrus, O.	6	-	1	3	
Burlington, Vt.	1	85	17	73	
Cleveland, O.	37	3	1	36	
DeKalb, Ill.	57	-	-	40	
Dover, O.	-	4	-	7	
Euclid, O.	7	-	-	3	
Everett, Mass.	57	2	31	31	1
Fitchburg, Mass.	34	-	-	8	
Ft. Wayne, Ind.	385	-	-	136	11
Hickory, N. C.	94	-	-	104	
Holland, Mich.	25	8	73	45	
Houston, Tex.	11	-	-	3	
Jonesboro, Ark.	13	-	-	23	
Linton, Ind.	-	-	6	6	
Louisville, Ky.	520	10	-	226	-
Memphis, Tenn.	31	3	4	13	
Newark, N.J.	17	-	-	7	-
Nutley, N.J.	1	-	-	3	
Oakland, Calif.	4	-	-	2	
Philadelphia, Pa.	15	22	33	71	9
Pittsfield, Mass.	83	11	24	34	3
Providence, R. I.	33	29	11	39	
Rome, Ga.	-	8	-	10	
Salem, Va.	37	-	1	8	
San Jose, Calif.	18	1	6	1	
Schenectady, N.Y.	197	3	1	172	
Shelbyville, Ind.	18	-	-	6	
Somerset, Ky.	1	-	-	-	
Springfield, N.J.	-	-	3	3	
Syracuse, N.Y.	6	363	197	351	
Toll City, Ind.	15	90	13	16	
Tiffin, O.	52	-	3	41	
Trenton, N.J.	88	-	-	63	3
Tyler, Tex.	152	-	-	45	
Warren, O.	34	-	-	17	
Waterford, N.Y.	67	-	-	13	
W. Lynn, Mass.	385	47	62	184	88
Youngstown, O.	34	-	-	13	
	2695	718	668	1858	109

*Includes employees who still have recall rights.

3/16/73

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND VIRGINIA

[Title omitted in printing]

* * * * *

ANSWERS BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' INTERROGATORIES

(Filed November 20, 1972)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by E. S. Willis, Manager - Employee Benefits, submits the following answers to plaintiffs' interrogatories dated September 21, 1972:

Answer to Interrogatory No. 1

84,056 women were working for GE on December 31, 1971.

Answer to Interrogatory No. 2

On December 31, 1971, 55,314 women between the ages of 18 - 45 were working in GE plants.

Answer to Interrogatory No. 3

On the dates shown, the number of women between the ages of 18 - 45 employed at GE plants in Virginia was as follows:

Portsmouth plant:	3,676	(Oct. 30, 1972)
Richmond plant:	128	(Sept. 30, 1972)
Lynchburg plant:	1,591	(Oct. 30, 1972)
Roanoke plant:	947	(Sept. 30, 1972)

Answer to Interrogatory No. 4

Data to answer this interrogatory with respect to the years 1970 and 1971 is presently being compiled, and the answer with respect to these years will be furnished plaintiffs on or about December 1, 1972. Data sufficient to answer this interrogatory with respect to the year 1972 is not available. To retrieve and review the relevant records for the years 1967, 1968, and 1969 would be unduly burdensome; in any case, the information sought with respect to the latter years is irrelevant and does not appear reasonably calculated to lead to the discovery of admissible evidence.

Answer to Interrogatory No. 5

See answer to Interrogatory No. 4

Answer to Interrogatory No. 6

See answer to Interrogatory No. 4

Answer to Interrogatory No. 7

With the possible exception of claims by employees working in GE plants in New Jersey, where a Temporary Disability Benefits Law was in effect, during the years

1970, 1971, and 1972 there were no instances where women employees of GE received weekly benefit payments under GE's non-occupational sickness and accident insurance coverage because of abortions. With respect to the years 1967, 1968, and 1969, the information sought is irrelevant and does not appear reasonably calculated to lead to the discovery of admissible evidence.

Answer to Interrogatory No. 8

See answer to Interrogatory No. 7. In view of such answer, no further response is made to this interrogatory.

Answer to Interrogatory No. 9

With the possible exception of women employees in GE's New Jersey plants, as to whom a supplemental response will be furnished plaintiffs on or about December 1, 1972, the answer to this interrogatory with respect to the years 1970, 1971, and 1972 is "No". With respect to the years 1967, 1968, and 1969, the information sought is irrelevant and does not appear reasonably calculated to lead to the discovery of admissible evidence.

Answer to Interrogatory No. 10

See answer to Interrogatory No. 9. In view of such answer, no further response is made to this interrogatory.

Answer to Interrogatory No. 11

See answer to Interrogatory No. 4.

Answer to Interrogatory No. 12

See answer to Interrogatory No. 4.

Answer to Interrogatory No. 13

See answer to Interrogatory No. 4

Answer to Interrogatory No. 14

See answer to Interrogatory No. 4.

Answer to Interrogatory No. 33

No data is available which provides a direct answer to this interrogatory. During the year 1971, an average of 311,744 employees had personal coverage under GE's Insurance Plant. The following shows the number of GE employees by age and sex on December 31, 1971:

Age	Male	Female	Total
Under 20	3,050	2,038	5,088
20-24	26,157	13,495	39,652
25-29	34,616	10,755	45,371
30-34	26,414	8,354	34,768
35-39	24,744	8,525	33,269
40-44	27,375	9,913	37,288
45-49	28,245	11,493	39,738
50-54	25,613	10,231	35,844
55-59	18,984	6,526	25,510
60-64	8,994	2,726	11,720
	224,192	84,056	308,248

Answer to Interrogatory No. 34

See answer to Interrogatory No. 33. The information sought with respect to dependents and children is irrelevant and does not appear reasonably calculated to lead to the discovery of admissible evidence.

Answer to Interrogatory No. 36

No data is available which provides a direct answer to this interrogatory. According to statistics compiled by Metropolitan Life Insurance Company and reported to GE, during 1971 there were 5,545 claims for maternity expenses incurred by GE employees and 20,558 claims for maternity expenses incurred by dependents of GE employees. Metropolitan has not reported to GE the dollar amount of such claims, nor has it reported the average benefit by age of the employees filing the claims.

/s/ E.S. WILLIS
E. S. Willis

[Affidavit and jurat omitted in printing]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND VIRGINIA

[Title omitted in printing]

* * * * *

SUPPLEMENTAL ANSWERS BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' INTERROGATORIES
(Filed December 12, 1972)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by E. S. Willis, Manager - Employee Benefits, submits the following supplemental answers to plaintiffs' interrogatories dated September 21, 1972:

Supplemental Answer to Interrogatory No. 4

No data is available to answer this interrogatory: GE's records are maintained not on a plant basis, but rather on the basis of GE's administrative components which are fixed without reference to plant location.

Supplemental Answer to Interrogatory No. 5

Year	Miscarriages and Abortions	Childbirths	Total Pregnancies
1970	132	3,263	3,395
1971	160	2,520	2,680

Note: Figures shown for the year 1970 are complete: only partial figures are shown for the year 1971, for which year complete figures will not be available until early 1973.

Supplemental Answer to Interrogatory No. 6

The requested data is not available, and it would be unduly burdensome to supply the information sought at this time. Available data shows, however, that the average duration of pregnancy absences during 1970 was 136 days, and in 1971 the average duration for such absences was 131 days.

Supplemental Answer to Interrogatory No. 11

See supplemental answers to Interrogatories Nos. 4 and 12.

Supplemental Answer to Interrogatory No. 12

Year	Did Not Return to Work
1970	1,489
1971	1,093

Note: Figures shown for the year 1970 are complete; only partial figures are shown for the year 1971, for which year complete figures will not be available until early 1973.

Supplemental Answer to Interrogatory No. 13

See supplemental answers to Interrogatories Nos. 4 and 14.

Supplemental Answer to Interrogatory No. 14

Year	Returned to Work
1970	1,906
1971	1,587

Note: Figures shown for the year 1970 are complete; only partial figures are shown for the year 1971, for which year complete figures will not be available until early 1973.

E. S. Willis

[Affidavit, jurat and certificate of service ommitted in printing]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

ANSWERS BY DEFENDANT
GENERAL ELECTRIC COMPANY
TO PLAINTIFFS' THIRD INTERROGATORIES
(Filed February 28, 1973)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by J. F. Duncan, Consultant-Employee Benefits, submits the following answers to plaintiffs' interrogatories

dated December 29, 1972, and designated "Plaintiffs' Third Interrogatories":

Answer to Interrogatory No. 39

Yes. Paragraph 6 of the said Exhibit A represents the true facts respecting the self-insurer status of defendant GE.

Answer to Interrogatory No. 40

Yes. The said Exhibit B correctly states the practices followed by GE at its Salem, Virginia, plant in February 1968. Such policy continued until November 10, 1971. On the latter date, a policy was placed in effect allowing pregnant employees to continue to work as long as they wish and as long as they are physically able to work efficiently.

Answer to Interrogatory No. 41

To my knowledge, no GE plants follow the practice set out in the said Exhibit B, and all GE plants follow the practice of allowing pregnant employees to continue to work as long as they wish and as long as they are physically able to work efficiently.

Answer to Interrogatory No. 42

No information has been received in response to the said Exhibit C.

Answer to Interrogatory No. 43

Yes.

Answer to Interrogatory No. 44

Yes.

Answer to Interrogatory No. 45

Details to the extent requested are not available. However, reports of normal deliveries for 1970 and 1971 with respect to female employees at all GE plants and locations show that in about 50% of such cases the baby was born within 11 weeks of the time the employee began her pregnancy absence.

Answer to Interrogatory No. 46

The answer to both questions is "Yes". However, such benefits are paid only if approved by the involved insurance carrier and if the absence is medically certified to be the result of a totally disabling sickness. Moreover, the number of total disabilities resulting from such causes are infinitesimal and payment for such disabilities rarely occur. In addition, the same policy applies with respect to female employees.

Answer to Interrogatories Nos. 47-51, Inclusive

See answer to Interrogatory No. 46.

Answer to Interrogatory No. 52

The answer to both questions is "Yes". However, such benefits are paid only if approved by the involved insurance carrier and if the absence is medically certified to be the result of a totally disabling sickness or accident. In addition, the same policy applies with respect to female employees.

Answer to Interrogatory No. 53

The answer to both questions is "Yes". However, such benefits are paid only if approved by the involved insurance carrier and if the absence is medically certified to be the result of a totally disabling sickness. In addition, the same policy applies to female employees.

Answer to Interrogatory No. 54

See answer to Interrogatory No. 53.

Answer to Interrogatory No. 55

See answer to Interrogatory No. 46.

Answer to Interrogatory No. 56

See answer to Interrogatory No. 53.

Answer to Interrogatory No. 57

		Male	Female
1970 -	No. of claims (new)	19,045	15,509
	Average duration of claim	48 days	52 days
	No. of new claims per thousand employees	77	173
	Total benefits paid	$11,279,110	$7,405,790
	Average benefits paid per employee	$45.76	$82.57
1971 -	No. of claims (new)	22,987	17,719
	Average duration of claim	47 days	52 days
	No. of new claims per thousand employees	99	217
	Total benefits paid	$14,343,000	$9,191,195
	Average benefits paid per employee	$62.08	$112.91

1972 - No figures available

Answer to Interrogatory No. 58

The first agreement between plaintiff IUE and GE was signed in September 1950. Prior to that time, GE provided its employees with non-occupational sickness and accident benefits in amounts and under eligibility rules which varied from time to time.

Answer to Interrogatory No. 59

GE has paid certain employees sickness and accident benefits for pregnancy absences during the period approximately

1939-1948. These benefits were for maximum periods of 6 weeks, and varied from $10.00 to $15.50 per week depending on earnings. No records currently exist identifying the individuals who received such payments or the time or amounts of the payments made.

Answer to Interrogatory No. 60

September 1950.

Answer to Interrogatory No. 61

Pursuant to the agreement of counsel, this interrogatory is not answered at this time.

Answer to Interrogatory No. 62

For answer to this Interrogatory, see the Answer to the Complaint herein.

[Affidavit and jurat omitted in printing]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

SUPPLEMENTAL ANSWER BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' THIRD INTERROGATORIES

(Filed April 10, 1973)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by J. F. Duncan, Consultant-Employee Benefits, submits the following supplemental answer to Interrogatory No. 45 of plaintiffs' interrogatories dated December 29, 1972, and designated "Plaintiffs' Third Interrogatories":

Supplemental Answer to Interrogatory No. 45

A. The following tabulation with respect to normal deliveries during the years 1970 and 1971 shows the duration of pregnancy absences (in weeks) prior to the datesof delivery for employees at all GE plants and locations:

	1970	Cumulative Percent	1971	Cumulative Percent
No. of cases less than 1 wk	77		66	
No. of cases 1 wk-less than 2 wks	46		50	
2 wks-less than 3	58		60	
3 wks-less than 4	74		72	
4 wks-less than 5	115	12%	100	15%
5 wks-less than 6	148		90	
6 wks-less than 7	188		141	
7 wks-less than 8	204	29%	164	31%
8 wks-less than 9	263		204	
9 wks-less than 10	239	45%	176	47%
10 wks-less than 11	223		159	
11 wks-less than 12	232	60%	162	60%
12 wks-less than 13	261		206	
13 wks-less than 14	178		150	
14 wks-less than 15	129	78%	97	79%
15 wks-less than 16	115		91	
16 wks-less than 17	82		57	
17 wks-less than 18	60		48	
18 wks-less than 19	50		41	
19 wks-less than 20	45	89%	36	91%
20 wks-less than 21	45		22	
21 wks-less than 22	39		32	
22 wks-less than 23	39		21	
23 wks-less than 24	36		15	
24 wks-less than 25	12		14	
25 wks-less than 26	24		17	
26 wks-less than 27	22		17	
27 wks-less than 28	27		19	
28 wks-less than 29	22		14	
29 wks-less than 30	12		13	
30 wks-less than 31	16		8	
31 wks-less than 32	12		14	
32 wks-less than 33	14		7	
over 33 wks	28	100%	13	100%
	3,126		2,396	

B. Exhibit "A" attached hereto shows the duration of reported pregnancy absences during the years 1970 and 1971 for individual employees at GE's Salem, Virginia, plant. Also shown are individual delivery dates.

Key to Symbols

PU – Pension Unit ("369" - Salem Plant)
SSN – Social Security Number
START – Date Pregnancy Absence Began (e.g., "700102" - January 2, 1970)
END – Date Pregnancy Absence Terminated
DOB – Date of Birth
TP – Type of Birth ("N" - normal birth; "C" - Caesarian birth; "A" - abortion or - miscarriage)

C. Exhibit "B" attached hereto shows the duration of reported pregnancy absences during period 1972 - March 3, 1973, for individual employees at GE's Salem, Virginia, plant.

/s/ J. F. DUNCAN
J. F. Duncan

[Affidavit and jurat omitted in printing]

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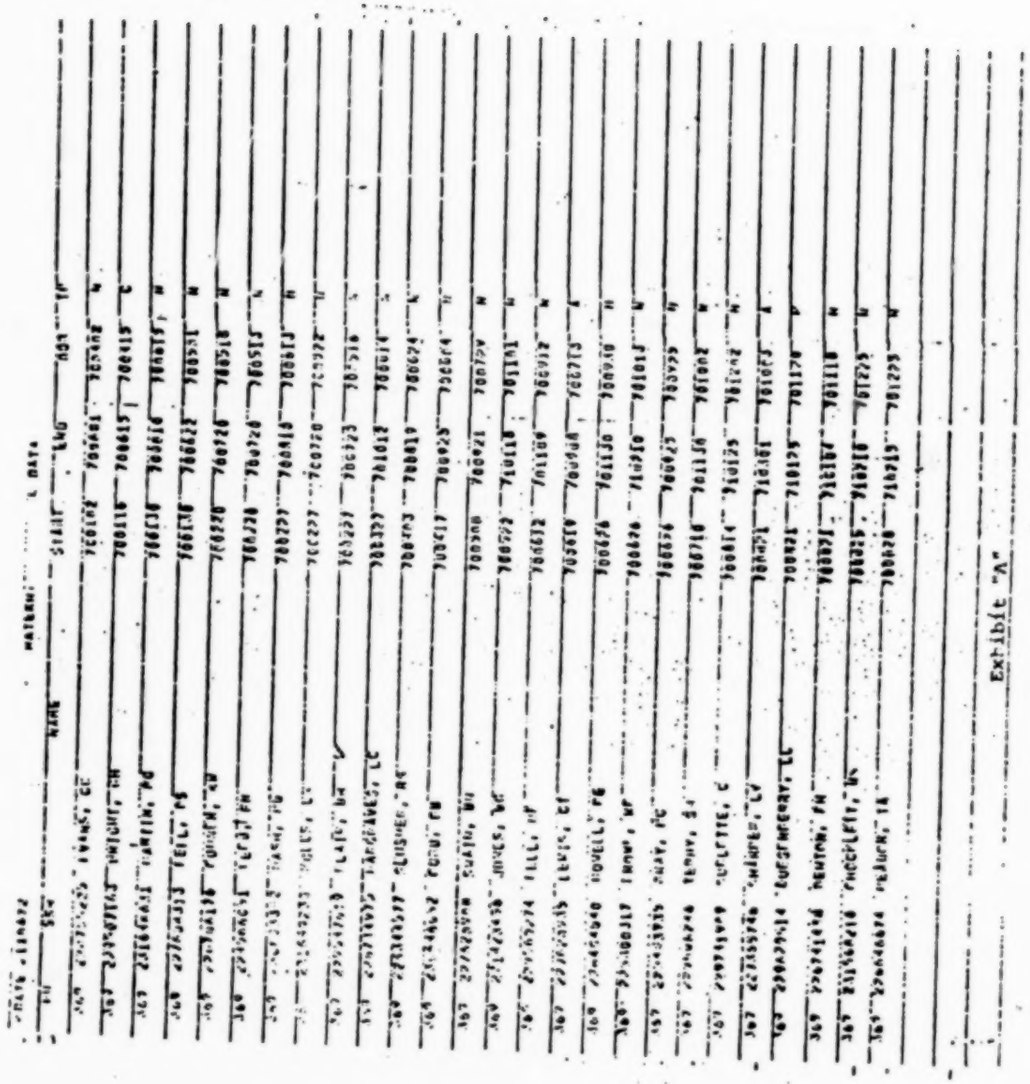

DATE 110474

PJ	SSN	NAME	START	END	DOM	TP
359	[illegible]	FRANKLIN, PD	700226	710104	701011	N
357	223447139	MURPHY, JL	700911	711328	711130	C
357	221449452	KELLY, JP	700518	711219	701219	C
357	[illegible]	THOMAS, JT	700718	710125	701215	N
357	[illegible]	SMITH, W	700925	710215	701226	N
359	227446057	PARK, TF	701229	710412	710130	C
359	227449224	THOMPSON, J	701330	710308	710108	N
357	229540292	STAFFORD, PR	701136	710405	710216	C
357	[illegible]	CARTER, SJ	701136	710419	710130	N
357	223512595	HANNAH, UU	701204	710316	710324	N
357	[illegible]	[illegible], PR	710101	710608	710418	K
357	[illegible]	WILLIAMS, S	710130	710621	710427	N
357	229559283	CASS, TV	710113	710014	710419	C
357	[illegible]	CHIEN, KT	710115	710607	710414	C
367	[illegible]	MORUS, MI	710122	710601	710409	C
367	227553426	HALL, WS	710122	710402	710402	N
367	225649573	TERRY, CH	710312	710623	710623	N
367	229701960	HATCHER, JH	710400	710927	710707	N
359	505724115	SINCLAIR, J	710416	710831	710722	N
359	242445279	HARTLESS, PE	710416	710915	710710	N
367	225625941	ECHOLST, GH	710416	710810	710627	N
367	220651476	CRINER, JH	710416	710927	710723	N
367	227725990	FLETCHER, DL	710416	711012	710713	N
369	225539452	CLARE, JW	710419	711101	710907	K
367	229542040	FLOWE, HJ	710423	711011	710811	N
359	[illegible]	CROWE, AS	710430	710902	710703	N

Exhibit "A"

PJ	SSN	NAME	START	END	DOM	TP
369	[illegible]	FOWLER, DI	710430	710930	710820	N
369	227522592	WILEY, DR	710501	710920	710726	N
369	229647041	FLEICHER, MH	710514	711004	710804	N
369	229632798	DUNCAN, CB	710517	710927	710735	N
369	230445740	WOFLE, MJ	710520	711206	711009	N
369	[illegible]	HILL, FW	710606	711018	710823	N
367	225540150	ROSEBORO, TR	710625	711018	710824	N
367	225530045	SMITH, AP	710701	720131	711201	N
369	227423363	GIBSON, AH	710712	720126	710907	N
369	227606253	HALL, RS	710813	720117	711172	N
369	[illegible]	LAPLEN, SL	710826	711011	710922	A
369	[illegible]	WILLIAMS, MN	710913	720327	720272	N
369	232706179	FOWLER, MR	710917	720221	711229	N
369	[illegible]	GODFREY, SD	710924	720417	720117	N
369	[illegible]	BRADLEY, JE	710924	720509	720115	K
357	229447169	LIFT, GM	711004	720124	711203	C
369	447446094	POTTER, HW	711015	720203	720125	N
359	229726736	TAYLOR, JE	711029	720320	720126	N
369	229649414	MCDANIEL, PM	711029	720228	711230	N
369	412506528	GILBERT, MV	711029	720228	711228	N
367	232581943	SMITH, MJ	711114	720402	720215	K
357	228754221	[illegible], SA	711124	720521	720312	N
369	224561932	HOLLEY, LJ	711203	720402	720412	N

Exhibit "A"

Social Security Number	Name	Date Pregnancy Absence Commenced	Date Return From Pregnancy Absence
224466255	Ellis, DH	720114	720508
229464873	Robertson, IC	720121	720523
231647808	Gilbert, GP	720128	720530
227609549	Lucado, LH	720120	--
227609127	Parker, IS	720204	720505
228600719	Nutter, BH	720211	720803
229324777	Fraction, RB	720310	720626
244561778	Basham, ER	720314	721002
224562557	Jones, BG	720414	720731
230406352	Griffith, JH	720414	720821
229542810	Greene, DW	720428	720823
229628179	Schowalter, JD	720429	720814
229728252	Webster, JJ	720505	720905
229728014	Townsend, SB	720512	720918
230652115	Poff, BB	720331	720613
228489298	Jackson, PP	720607	--
229729946	Dillon, DT	720629	721023
230662476	Barlow, S.L.	720728	730122
229486724	McDaniel, JE	720728	721204
229567658	Burwell, MA	720731	721016
226589416	Deaner, AF	720908	721227
226706176	Conner, KW	720915	--
230661892	Anderson, SA	720929	730115
227609426	Hale, WS	720929	730212
223760132	Eversole, CL	721027	730108
225645143	Peters, RF	721103	--
227622306	Grisso, MK	721027	--
229507263	Dickerson, ND	721110	--
227622102	Fontz, HB	721201	--
229569274	Bell, NP	721201	--
224828065	Tuck, DF	721127	--
223600243	Half, RL	721202	--
229687275	Brammer, LR	721215	--
225801240	Stevens, JG	730105	--
231649452	Kelley, JF	730126	--
229729544	Kimberlin, PB	730126	--
229647323	Sarver, LB	730111	--
229686937	Aker, CF	730126	--
228461778	Thompson, JF	730202	--
227447786	Colpman, YR	730302	--

Exhibit "B"

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

REVISED ANSWER BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' INTERROGATORIES

(Filed May 2, 1973)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by J. F. Duncan, Consultant-Employee Benefits, submits the following revised answers to plaintiffs' interrogatories dated September 21, 1972 and December 29, 1972.

Supplemental Answer to Interrogatory No. 5

	Miscarriage & Abortion	Childbirth	Total Pregnancies
1970	147	3401	3548
1971	180	2601	2781

Supplemental Answer to Interrogatory No. 12

	Did Not Return to Work
1970	1592
1971	1147

Supplemental Answer to Interrogatory No. 14

	Returned to Work
1970	1956
1971	1634

Supplemental Answer to Interrogatory No. 45

A. The following tabulation with respect to normal deliveries during the years 1970 and 1971 shows the duration of pregnancy absences (in weeks) prior to the date of delivery for employees at all GE plants and locations:

Pregnancy Absences Prior to Delivery
Total Company - Normal Delivery

Weeks Duration of Pregnancy Absence	1970	Cumulative Percent	1971	Cumulative Percent
Under 1 week	86		68	
1 week but less than 2	46		52	
2 weeks but less than 3	63		61	
3 weeks but less than 4	76		74	
4 weeks but less than 5	124	12%	106	15%
5 weeks but less than 6	153		91	
6 weeks but less than 7	195		146	
7 weeks but less than 8	211	29	167	31
8 weeks but less than 9	277		206	
9 weeks but less than 10	246	45	185	47
10 weeks but less than 11	231		162	
11 weeks but less than 12	229	59	165	60
12 weeks but less than 13	275		210	
13 weeks but less than 14	184		153	
14 weeks but less than 15	134	78	102	79
15 weeks but less than 16	117		93	
16 weeks but less than 17	84		58	

Weeks Duration of Pregnancy Absence	1970	Cumulative Percent	1971	Cumulative Percent
17 weeks but less than 18	62		51	
18 weeks but less than 19	52		42	
19 weeks but less than 20	47	89	36	90
20 weeks but less than 21	46		25	
21 weeks but less than 22	42		32	
22 weeks but less than 23	41		23	
23 weeks but less than 24	37		16	
24 weeks but less than 25	14		16	
25 weeks but less than 26	25		20	
26 weeks but less than 27	23		19	
27 weeks but less than 28	27		19	
28 weeks but less than 29	23		15	
29 weeks but less than 30	14		13	
30 weeks but less than 31	16		10	
31 weeks but less than 32	12		17	
32 weeks but less than 33	16		9	
33 weeks and over	33	100%	14	100%
TOTAL	3,261		2,476	

/s/ J. F. DUNCAN
J. F. Duncan

[Affidavit and jurat omitted in printing

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND, VIRGINIA

[Title omitted in printing]

* * * * *

FURTHER SUPPLEMENTAL ANSWERS BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' INTERROGATORIES

(Filed July 5, 1973)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by J. F. Duncan, Consultant-Employee Benefits, submits the following supplemental answers to plaintiffs' interrogatories dated September 31, 1972:

Supplemental Answer to Interrogatory No. 5

Year	Miscarriages	Childbirths	Total Cases
1972	130	2206	2336

Note: Figures shown for the year 1972 are not complete; complete figures will not be available until early 1974.

Supplemental Answer to Interrogatory No. 6

Available data shows the the average duration of pregnancy absences during 1972 was 122 days.

Supplemental Answer to Interrogatory No. 12

Year	Did Not Return To Work
1972	928

Note: Figures shown for the year 1972 are not complete; complete figures will not be available until early 1974.

Supplemental Answer to Interrogatory No. 14

Year	Returned To Work
1972	1408

Note: Figures shown for the year 1972 are not complete; complete figures will not be available until early 1974.

/s/ J. F. DUNCAN
J. F. Duncan

[Affidavit and jurat omitted in printing]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

ANSWERS BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' FOURTH INTERROGATORIES
(Filed July 19, 1973)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by J. F. Duncan, Consultant - Employee Benefits, submits the following answers to plaintiffs' interrogatories dated May 22, 1973, and designated "Plaintiffs' Fourth Interrogatories":

Answer to Interrogatories Nos. 63-66

Information in response to these Interrogatories is in the process of being collected from operating locations and will be supplied shortly.

Answer to Interrogatory No. 67

No. An employee is terminated if she either does not return to work by the end of the 8th week following childbirth or does not request an extension of leave within that period.

Answer to Interrogatories Nos. 68-69

Yes. Such notice is normally given orally to a pregnant employee by the plant doctor after she has informed management of her pregnancy. In addition, in many plants, such notification has been given in written form addressed to all employees. Examples of such written notifications are attached hereto, marked Exhibits A-1 through A-9.

Answer to Interrogatory No. 70

S&A benefits for pregnancy absences during the period approximately 1939-1948 were paid only to employees in certain GE plants. Records relating to coverage in those years are incomplete, but it is believed that the following plants were covered by those provisions:

Plants of the Lamp Department

Electronics Department Plants:

Easthampton (Mass.) Tube Works
Ken-Rad Division
Wabash (Ind.) Cabinet Works

Appliance and Merchandise Department Plants:

Lowell, Mass., Plant
Poughkeepsie, New York, Plant
York (Pa.) Works
Boundary Avenue Plant (York)
White Plains, New York, Plant
Saugerties, New York, Plant
Millerton, New York, Plant
New Kensington, Pa., Plant
Allentown, Pa., Plant

Electric Sink & Dishwasher Unit (Scranton, Pa.)
Trenton, New Jersey, Plant
Coxsackie, New York, Plant
Mt. Vernon, New York, Plant
Norfolk, Connecticut, Plant

During that period of time there was no companywide GE insurance plan and different company components were privileged to adopt insurance coverage as desired.

Answer to Interrogatory No. 71

S&A benefits for pregnancy absences during the period approximately 1939-1948 were paid in the plants listed above to both hourly and salaried employees.

Answer to Interrogatories Nos. 72-75

No. The calculations set forth in plaintiffs' Interrogatories are not correct in that the number of claims set out in the answer to Interrogatory No. 57 were only new claims, whereas the amount set out as total benefits paid included payments on pre-existing as well as new claims. It would be difficult, if not impossible, at this time to reconstruct precise figures, but we estimate that a reconstruction would show a difference of no more than 2 percent in the result of plaintiffs' calculations. In this connection we note the attached fact sheet, dated December 1971, prepared by the Womens Bureau, U.S. Department of Labor, shows that in the years 1965-1971 women's median earnings have been approximately 60 percent of men's earnings. (Exhibit B)

Answer to Interrogatories Nos. 76-77

Claims of the type of total disability referred to in these Interrogatories are very infrequent, but would be paid. Electronic records maintained by Metropolitan Life Insurance Company with respect to GE weekly S&A claims do not reflect the cause of disability. A manual review of such records was made of approximately 750 randomly selected current claims (the average number of GE claims received per week). None of these claims included claims for elective plastic surgery or for psychiatric care.

Answer to Interrogatory No. 78

S&A benefits are paid only where an employee (male or female) is under the actual care of a physician who can certify as to a disability being caused by sickness or accident and where all the conditions of the Insurance Plan are complied with.

Answer to Interrogatory No. 79

To the extent that certain parts of Exhibit B contain data which pertains to some elements of turnover and to some plants of the company, such parts are accurate.

[Affidavit and jurat omitted in printing]

EXHIBIT A-1.

Management Newsletter

Lighting Systems Business Dept.
No. 73-5
March 22, 1973

PURCHASES FROM EMPLOYEE STORE

Any purchase of material from the new Employee Store – for business, rather than personal, use – requires a properly signed Purchase Order. (Refer to Operating Instruction 22.31 on Short Orders.)

The assigned vendor number is S374; and the order should be made to:

Skyland TV and Stereo Service
1214 Hendersonville Road
Asheville, North Carolina 28885

If the material is picked up directly from the vendor (at the Employee Store), the recipient must sign a packing slip – indicating that the material has been received. It is necessary for the recipient to obtain his manager's signature and to forward the packing slip to the Receiving Component.

Purchases from this particular vendor do not differ in any way from any other purchases made from local vendors, with regard to documentary requirements described in Operating Instruction 22.31. Additional copies of this instruction are available from the Materials secretary.

INFORMATION SOURCE: David R. Mason, Purchasing Systems Specialist, Extension 287.

* * *

CERTIFICATION OF PREGNANCY

As you undoubtedly know, it is the position of the Lighting Systems Department, that pregnant employees may discontinue working at any time during the course of their pregnancy, and be placed on "Ilness-Pregnancy" status.

It is important, however, that once pregnancy has been established, the employee notify both the Medical Unit and the employee's supervisor.

Those pregnant emplcyees who wish to continue at work may do so, providing the job assignment is considered appropriate and non-hazardous . . . work efficiency is maintained . . . and they have the approval of their attending physicians and the concurrence of the General Electric physician.

INFORMATION SOURCE: C. C. Boot, Specialist, Employee Relations,

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EXHIBIT A-2.

MURFREESBORO

N E W S

D I G E S T

SITE OF THE BATTLE OF STONES RIVER – 1862

Vol. 17 Thursday, February 15, 1973 (69 7/8) No. 32

DAVE'S QUESTION CORNER – CORRECTION

In the DIGEST of January 15th, there was a question concerning absence of employees due to pregnancy to which my answer may have been misleading. The question and the correct answer are as follows:

Q. Is it Company policy that all pregnant female employees take their leave of absence at the beginning of their sixth month?

A. Pregnant employees may discontinue working at any time during the course of their pregnancy, and be placed on "Illness-Pregnancy" status.

Those employees who desire to continue at work may do so as long as they want providing the job assignment is considered appropriate and non-hazardous, work efficiency is maintained and they have the approval of their attending physician and the concurrence of the GE physician.

PUBLISHED EVERY WORKING DAY FOR THE MEN AND WOMEN OF THE GENERAL ELECTRIC COMPANY, MURFREESBORO, TENNESSEE

EXHIBIT A-3.

APPLIANCE PARK - EAST, COLUMBIA, MARYLAND EMPLOYEE HANDBOOK ISSUED SINCE 1972

I. MILITARY SERVICE

A military leave of absence, which will protect your employment with the Company and continue your service while on leave, may be obtained if you enlist, are inducted, or are recalled to active duty in the armed forces of our country. Your job, or a comparable one, will be waiting for you when you return, unless circumstances have so changed as to make it impossible or unreasonable. However, you must reapply for your job within 90 days after you are honorably discharged or released from active duty.

A separate document explaining the benefits for employees entering the armed forces is available in the Employee Relations office.

J. MATERNITY

Subject to the continuing approval of the plant physician and the approval of her attending physician, a female employee who becomes pregnant may continue to work up to two weeks prior to the expected date of delivery. The length of time that a pregnant female employee may continue to work will vary from case to case and will depend on a variety of factors including general health, safety, the nature of the employee's work, and the like. To allow sufficient time to plan for the continuation of your work, please notify your supervisor as soon as your pregnancy is confirmed by your physician.

Continuity of service is protected during absence due to pregnancy, and service credits are granted upon return for as much as six months if you have continuity of service at the time you leave and if you return or make arrangements to return within eight weeks after delivery.

In the event that you are physically unable to return to work at the end of eight weeks following the delivery or should the doctor recommend that your child needs your care for a few additional weeks, it is important that you contact your supervisor to request approval of an extension of your protected absence.

K. JURY DUTY

If you are called for jury duty, you will be paid the difference between the jury fee and your current straight-time earnings. Similar make-up pay is granted to employees who lose time from work because of appearance in court in answer to a subpoena, except when the employee is either a plaintiff, defendant or other party in the court proceedings. The limit on such earnings is eight hours a day and forty hours a week, for as long as you are required to perform jury duty. Your service is protected for any time lost. To qualify for this payment, you must supply a statement from the court certifying the time you spend on jury duty and the fees received.

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EXHIBIT A-4.

A wide variety of in-house Company courses is available to employees who are interested in pursuing other developmental activities. Listings of these courses and and start dates are publicized in the Astronote.

Leave of Absence

A leave of absence, without pay, may be granted to an employee to protect his continuity of service during a temporary absence from work. For the period of the leave of absence you may continue all insurance coverage (except Weekly Sickness and Accident benefits) by payments of regular contribution monthly in advance, as long as you maintain continuity of service. Of course, re-employment upon return from a leave of absence is subject to business conditions at that time.

Educational Leave of Absence

Leave may be granted to employees to pursue undergraduate or graduate studies. Employee must have a minimum of two year's service to apply. The course work to be pursued must lead to either an undergraduate or graduate degree related to the employee's work.

Maternity Absence

Employees who are pregnant may work through the end of their sixth month, or through the eighth month if they have permission from their personal doctor and the Company physician.

An absence for pregnancy is treated as an absence for illness, except that no weekly sickness and accident payment is made. Unless there are verified medical compli-

cations, employees returning to work must report back no later than eight weeks after the delivery date. It may be possible to return earlier if you have the written consent of your doctor and the approval of the Company physician.

Military Service

While you are on military leave of absence, you do not break your Company service. You continue to build service credits for up to four years. When you are honorably discharged, you are entitled to be re-employed on your former job or on a job having the same status, pay, and seniority if you are still able to do the work.

If you enter U.S. military service for active duty after one year of continuous service with GE, you are eligible for a military duty allowance equal to one month's straight-time pay. Effective January 1, 1971, continuous service requirement will be reduced to 30 days.

If you are called into service for a reason other than active military duty (summer encampment, emergency duty or training, for instance), you are eligible for military pay differential for the first 17 days of military service in a calendar year, based on the number of working days included in such 17 days. Effective January 1, 1971, military pay differential will be increased.

EXHIBIT A-5.

HANDBOOK

for NON–EXEMPT HOURLY EMPLOYEES

Covering Personnel Policies and Practices

GENERAL ELECTRIC

5.6 MATERNITY

Female employees may leave because of pregnancy at any time from the start of the pregnancy up to, but no later than, the end of the 7th month of pregnancy. The maternity leave extends to 8 weeks after the pregnancy ends.

Continuity of service is protected during absence due to pregnancy, and service credits are granted upon return for as much as 12 months if you have continuity of service at the time you leave.

Should your health or the health of the child make it impossible for you to return to work, a statement from your doctor explaining the medical circumstances should be presented to the Dispensary for consideration of an approved extension of your protected absence. (The request must be made no later than 8 weeks after termination of pregnancy.)

5.7 JURY DUTY

You will be paid the difference between the jury fee and your last straight-time earnings. The limit on such earnings is 8 hours a day and 40 hours a week, for as long as you are required to perform jury duty. Your service is protected for any time lost. You must supply a statement certifying the time you spend on jury duty and the fees received.

EXHIBIT A-6.

BRIDGEPORT PLANT

MATERNITY ABSENCE

A female employee is not required to begin a maternity leave at any specific time during her pregnancy. She may work as long as her doctor and the Plant Physician consider it safe.

If you leave on Maternity Absence, your service with the Company will be automatically protected for 8 weeks after the birth of your child or termination of pregnancy.

In order to be considered for reinstatement there are several notifications to E & CR and medical releases required. Before you go on Maternity Absence be sure you discuss these with E & CR so you know exactly what your responsibilities are.

REPORTING FOR WORK AFTER ILLNESS

Any employee who returns to work following an illness or injury must obtain clearance from the plant dispensary

before going back on the job – if he has been hospitalized, or if he has been absent for five or more consecutive working days. Normally, presentation of a note from your physician stating that he feels you are capable of returning to work on a given day is sufficient.

Examinations by the Plant Physician are required, before returning to work, if:

1) It appears necessary to match your job with your health capabilities.
2) You have been away from work two weeks or more, for any reason.
3) You have been injured in an accident.

Appointments with the Plant Physician may be made through the dispensary.

EXHIBIT A-7.

EMPLOYEE INFORMATION

INSULATOR PRODUCTS DEPARTMENT

GENERAL ELECTRIC
Baltimore, Maryland

6. Your are absent from work for a continuous period of more than one year for any reason other than a leave of absence granted in advance.

PHYSICAL EXAMINATIONS FOLLOWING EXTENDED ABSENCE

If you are out of work for more than fourteen (14) consecutive calendar days, for any reasons other than vacation, you must receive clearance from the company doctor before you can report to work.

MATERNITY ABSENCES

Women employees who are pregnant may work through the period of their pregnancy for which they have the approval of their personal physician and the plant physician.

An absence caused by pregnancy is treated the same as an absence for illness except that weekly sickness and accident payment is not made. Unless there are verified medical complications, employees desiring to maintain their continuity of service must make themselves available for work within eight weeks after delivery date.
after delivery date.

CHANGE OF ADDRESS

Any time you change your address or telephone number, you must notify the Relations Section at once, so that in case of any emergency we will know where to reach your family.

MARITAL STATUS

Should you change your marital status or have additional dependents, you also should notify the Relations Section.

IF YOU LEAVE THE COMPANY

If you should find it necessary to leave the Department, notify your foreman or manager at least one week in advance. Obtain a removal slip from him and report to the Relations Office for an Exit Interview. You will be required to turn in your locker key, safety glasses, any any other company property. Your final pay will be arranged at that time.

GOOD HOUSEKEEPING

A clean place to work is a better, easier, safer and more pleasant place. Keep your work area clean and orderly. Keep aisles clear, help keep washrooms neat. Throw rubbish in the containers provided, not just at them. In short, be a good housekeeper on the job. You are expected to keep your own work area and your tools and machines clean.

Personal neatness and proper attire are expected.

VISITORS

You may not visit units other than your own during working hours without permission unless it is required as a part of your assigned work. You will not be called away from your work station for visitors except in case

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EXHIBIT A-8

AUGUST 25, 1972 RE-ENTRY & ENVIRONMENTAL SYSTEMS DIVISION VOL. 7, NO. 18
GENERAL ELECTRIC COMPANY

MEDICAL NOTES

PREGNANCY POLICY LIBERALIZED

A Revised, liberalized Division policy on absences for pregnancy has been issued to permit female employes, who meet certain requirements, to continue working until two weeks prior to their expected date of delivery.

The employe's doctor and the Division Medical Director must agree that the employe's assugnment will have no adverse effect on her health and safety.

The policy requires that the employe's physician sign a "Certificate to Work During Pregnancy" form specifying the expected delivery date. The forms are available at all Division medical clinics.

Following a review by the Division Medical Director, the employe will be permitted to continue work for as long as she is able to perform her job satisfactorily. However, under no circumstances will she be permitted to work beyond the two weeks prior to the expected delivery.

Questions regarding benefits during absences for pregnancy should be directed to the Employe Benefits Office, ext. 3818 at Division Headquarters or 1234 at the Operational Manufacturing Center (for all RESD Valley Forge area employes).

EXHIBIT A-9.

THE GENERAL ELECTRIC COMPANY
Burlington, Iowa

SWITCHGEAR HIGH–LIGHTS

VOLUME XII Thursday, February 10, 1972 Number 12

Have You Filed Your 1971 GE Medical Insurance Claim?

"Deadline is March 31st"

Employees who have not as yet filed their 1971 medical insurance claims should do so as soon as possible before March 31st. The Insurance Plan provides that proof of claim must be filed not later than 90 days after the end of the calendar year in which the expense occurs.

To submit a claim for benefits, you should:

1) Assemble all your bills for covered medical expenses (doctor, drug, hospital, x-rays, etc.)
2) Get a blue claim form from the Plant Nurse and complete it carefully, following the instructions provided with the form.
3) Return the form and your bills to the Nurse.
4) If you have any questions about the Insurance Plan benefits or your claim, please contact E & CR.

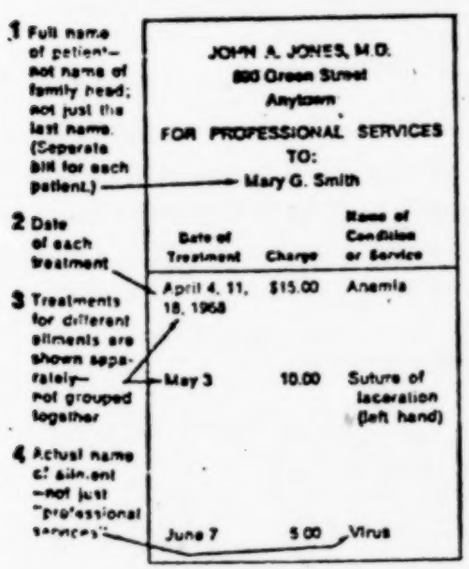
- Doctor and Druggist Bills Must Be Complete

Bills are the "evidence" needed to pay claims. Any hospital bills you receive will usually present full information. But doctor and druggist bills are sometimes incomplete. You can

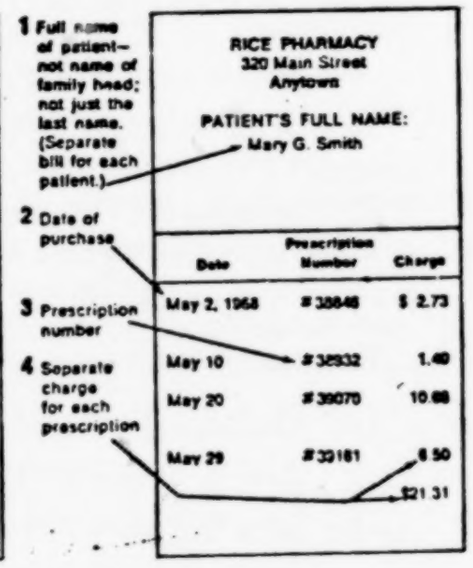
same time and assure your self of quicker payment of benefits by having these bills complete and correct before you submit them.

FOR PROMPT CLAIM PAYMENT, MAKE SURE –

Doctor Bills Look Something Like This:



Druggist Bills Look Something Like This:



QUESTION BOX –

(Editor's Note – Three questions were received on this subject, each worded a little differently. This answer is intended to explain what all 3 questions were asking. If there is anyone who wishes further information or clarification, we suggest contacting Ray Hibler in E & CR.

Question: "Why can one person work six weeks before the baby is due and anyone else has to quit at six months?"

Answer: Thanks for your question. It's a timely one and we checked carefully our practices here as well as the latest guidance from the Corporate Medical Operation in New York. Here's what we found out.

* The decision to permit pregnant employees to continue at work involves many considerations. These include: 1) the desire of the individual, 2) approval of her physician and concurrence by the General Electric physician, 3) maintenance of good health and well being, 4) appropriate and safe work assignment, and 5) continued efficient work performance. Because these factors vary from one employee to another, each case must be decided individually.

* While pregnant employees in this plant have generally left work at the end of the sixth month, some leave in the 2nd or 3rd month and some may work beyond the sixth month. It's an individual matter based on all the factors above.

* Pregnant employees who have chosen to continue at work, and who have been certified, may thereafter elect at any time to discontinue working and may be on "Illness-Pregnancy" status. Those pregnant employees who continue at work beyond the sixth month of pregnancy should have the approval of their attending physician and be followed closely by company medical personnel to determine continued well being and job safety. Pregnant employees will of course be required to discontinue working and will be placed on "Pregnancy" status in cases where the attending or plant physician determines it is unwise to continue at work because of medical reasons,

when suitable work is no longer available, and when through inefficient performance, the employee demonstrates inability to perform work satisfactorily.

* Above all, it is an individual matter and the decision to continue work or not is based on several factors.

Published for the Men and Women of the General Electric Company by Employee and Community Relations

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EXHIBIT B.

U.S. DEPARTMENT OF LABOR

Employment Standards Administration

WOMEN'S BUREAU

Washington, D. C. 20210

FACT SHEET ON THE EARNINGS GAP

Women who work at full-time jobs the year round earn, on the average, only $3 for every $5 earned by similarly employed men. The ratio varies slightly from year to year, but the gap is greater than it was 15 years ago. From 64 percent in 1955, women's median wage or salary income as a proportion of men's fell to 61 percent by 1959 and 1960 and since then has fluctuated between 58 and 60 percent. Women's median earnings of $5,323 in 1970 were 59 percent of the $8,966 received by men.

Median Earnings of Full-Time Year-Round Workers,[1] by Sex, 1955-70[2]

Year	Median earnings		Women's median earnings as percent of men's
	Women	Men	
1971[3]	$5,593	$9,399	59.5
1970	5,323	8,966	59.4
1969	4,977	8,227	60.5
1968	4,457	7,664	58.2
1967	4,150	7,182	57.8
1966	3,973	6,848	58.0
1965	3,823	6,375	60.0
1964	3,690	6,195	59.6
1963	3,561	5,978	59.6
1962	3,446	5,794	59.5
1961	3,351	5,644	59.4
1960	3,293	5,417	60.8
1959	3,193	5,209	61.3
1958	3,102	4,927	63.0
1957	3,008	4,713	63.8
1956	2,827	4,466	63.3
1955	2,719	4,252	63.9

[1]Worked 35 hours or more a week for 50 to 52 weeks.

[2]Data for 1967-70 are not strictly comparable with those for prior years, which are for wage and salary income only and do not include earnings of self-employed persons.

Source: U.S. Department of Commerce, Bureau of the Census: Current Population Reports, P-60.

[3]Report P60, No. 85 (Dec. 1972) Table 5b.

The gap in earnings varies by major occupation group. It was largest in 1970 for sales workers (women earned only 43 percent of what men earned) and smallest for

professional and technical workers (women earned 67 percent of what men earned). Wage or salary incomes of women in relationship to those of men were somewhat higher in 1970 than in 1969 for managerial workers, sales workers, and professional workers, but lower for service workers outside the home.

Median Wage or Salary Income of Full-Time Year-Round Workers, by Sex and Selected Major Occupation Group, 1970

Major occupation group	Median wage or salary income		Women's median wage or salary income as percent of men's
	Women	Men	
Professional and technical workers	$7,878	$11,806	66.7
Nonfarm managers, officials, and proprietors	6,834	12,117	56.4
Clerical workers	5,551	8,617	64.4
Sales workers	4,188	9,790	42.8
Operatives	4,510	7,623	59.2
Service workers (except private household)	3,953	6,955	56.8

Source: U.S. Department of Commerce, Bureau of the Census: Current Population Reports, P-60, No. 80.

Another measure of the gap in the earnings of women and men full-time year-round workers is a distribution of these workers by earnings levels. For example, 12 percent of the women but only 5 percent of the men earned less than $3,000 in 1970. Moreover, 45 percent of the women but only 14 percent of the men earned less than $5,000. At the upper end of the scale, only 7 percent of the women but 40 percent of the men had earnings of $10,000 or more.

Earnings of Full-Time Year Round Workers, by Sex, 1970

Earnings	Women	Men
Number with earnings	15,476,000	36,132,000
Percent distribution	100.0	100.0
Less than $3,000	12.2	5.1
$3,000 to $4,999	32.5	8.8
$5,000 to $6,999	29.2	16.2
$7,000 to $9,999	19.3	30.1
$10,000 to $14,999	5.9	26.5
$15,000 and over	1.1	13.5

Source: U.S. Department of Commerce, Bureau of the Census: Current Population Reports, P-60, No. 80.

The educational background of a worker often determines not only the type of work but also the level of job within an occupation for which he or she can qualify. However, women who work full time the year round earn substantially less than similarly employed men who have the same amount of education. Among workers who had completed only grade school or 1 to 3 years of high school, women's incomes in 1970 were only 55 percent of men's. Among those who had 5 years or more of college, the proportion was 65 percent.

Median Income in 1970 of Full-Time Year-Round Workers,
by Sex and Years of School Completed
(Persons 25 years of age and over)

Years of school completed	Median income		Women's median income as percent of men's
	Women	Men	
Elementary school:			
Less than 8 years	$3,798	$ 6,043	62.8
8 years	4,181	7,535	55.5
High school:			
1-3 years	4,655	8,514	54.7
4 years	5,580	9,567	58.3
College:			
1-3 years	6,604	11,183	59.1
4 years	8,156	13,264	61.5
5 years or more	9,581	14,747	65.0

Source: U.S. Department of Commerce, Bureau of the Census: Current Population Reports, P-60, No. 80.

The previous figures do not necessarily indicate that women are receiving unequal pay for equal work. For the most part, they reflect the fact that women are more likely than men to be employed in low-skilled, low-paying jobs. For example:

In public elementary and secondary schools, women are less than 20 percent of the principals; superintendents; deputy, associate, and assistant superintendents; and other central office administrators in 1970-71.

Among professional and technical workers in business, women are concentrated in the class B and class C computer programer positions, while men are more frequently employed in the higher paying class A

positions. Similarly, women are usually in the lowest category of draftsmen and engineering technicians.

Among managers and proprietors, women frequently operate small retail establishments, while men may manufacturing plants or wholesale outlets.

In the manufacturing of men's and boys' suits and coats, women are likely to be employed as hand finishers, thread trimmers and basting pullers, and sewing machine operators–jobs where their average hourly earnings are less than $2.70–while men are likely to be employed as finish pressers (hand or machine), underpressers, cutters, and markers–with average hourly earnings of $3.50 to $4.25.

In the service occupations, women are likely to be cooks, nurses' aides, and waitresses, while men are likely to be employed in higher paying jobs as bartenders, guards, custodians, firemen, policemen, and detectives.

Nevertheless, within some of these detailed occupations, men usually are better paid. For example, Bureau of Labor Statistics surveys of earnings in major office occupations showed that during the period July 1969 to June 1970 men's average weekly earnings were substantially higher than those of women among class A and class B accounting and payroll clerks. The weekly salary differentials between women and men class A accounting clerks ranged from $6.50 to $42.50 in 60 of the important centers of business and industry surveyed.

Median salaries of women scientists in 1970 were from $1,700 to $5,100 less than those of men in the same

fields. The greatest gap was in the field of chemistry, where the median annual salary of women was $10,500 as compared with $15,600 for men. Additional details are given in the following table.

Median Salary of Full-Time Employed Civilian Scientists, by Sex and Field, 1970

Field	Median salary		Women's median salary as percent of men's
	Women	Men	
All fields	$11,600	$15,200	76.3
Chemistry	10,500	15,600	67.3
Earth and marine sciences	10,500	15,000	70.0
Atmospheric and space sciences	13,000	15,200	85.5
Physics	12,000	16,000	75.0
Mathematics	10,000	15,000	66.7
Computer sciences	13,200	16,900	78.1
Agricultural sciences	9,400	12,800	73.4
Biological sciences	11,000	15,500	71.0
Psychology	13,000	15,500	83.9
Statistics	14,000	17,100	81.9
Economics	13,400	16,500	81.2
Sociology	11,000	13,500	81.5
Anthropology	12,300	15,000	82.0
Political science	11,000	13,500	81.5
Linguistics	11,300	13,000	86.9

Source: National Science Foundation: "National Register of Scientific and Technical Personnel." 1970.

The jobs and salaries expected to be offered by 191 companies to June 1971 college graduates were reported in a survey conducted in November 1970. Salaries to be offered to women were consistently below those to be

offered to men with the same college major. A comparison with 1970, however, shows a marked reduction in the spread between salaries for women and men. For 1970 the monthly gap ranged from $86 down to $18; for 1971 the gap ranged from $68 down to only $1 in engineering. These figures do not indicate that different salaries are being offered to women and men hired by the same company for the same job, but are averages of offers by all companies planning to employ graduates in that field.

Average Starting Monthly Salary for June 1970 and 1971 College Graduates, by Sex and Selected Field

Field	1971		1970	
	Women	Men	Women	Men
Accounting	$793	$845	$746	$832
Chemistry	812	826	765	806
Economics, finance	700[1]	768	700	718
Engineering	884	885	844	872
Liberal arts	688	690	631	688
Mathematics, statistics	776	806	746	773

[1]Average based on only six companies planning to employ women.

Source: Endicott, Frank S., Dr.: "Trends in Employment of College and University Graduates in Business and Industry." Northwestern University. 24th Annual Report, December 1969; 25th Annual Report, December 1970.

* * * * *

Federal legislation requires equal pay for equal work and prohibits six discrimination in employment by covered employers, labor unions, and employment agencies. In

addition to enforcement of these laws, equality of earnings for qualified men and women will require an expansion of the occupational opportunities for women. Because it is good business to make the most efficient use of available labor resources, it would be highly advantageous for employers to reconsider their recruitment, on-the-job training, and promotion policies with a view toward giving well-qualified and talented woemn the opportunity to move into more of the better paying jobs than they now hold.

December 1971 (rev.) 3134

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A UNITED STATES DEPARTMENT OF COMMERCE PUBLICATION

CURRENT POPULATION REPORTS

Consumer Income

Series P-60, No. 85
December 1972

MONEY INCOME IN 1971 OF FAMILIES AND PERSON IN THE UNITED STATES

Number of Families by Family Income in 1947 to 1971

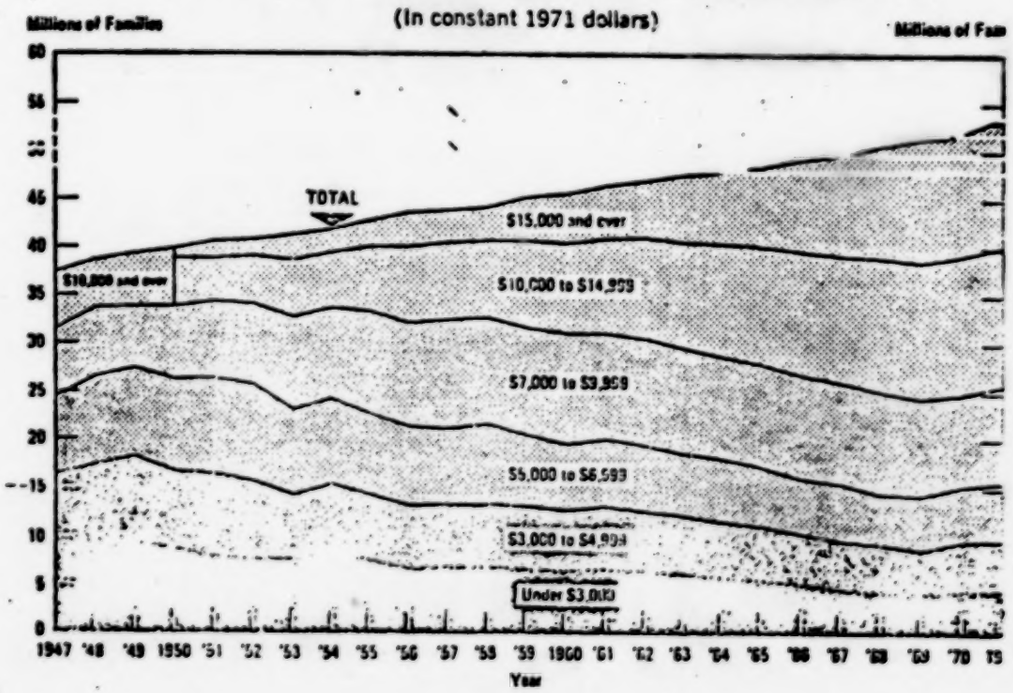
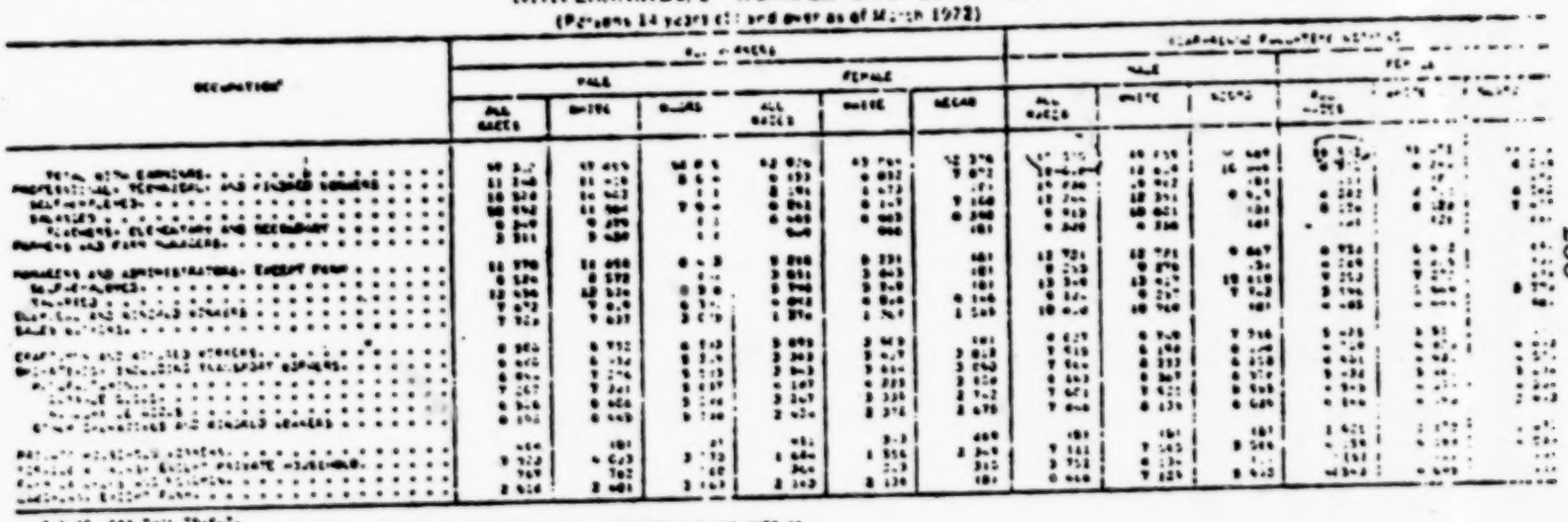


Table 55. RACE AND OCCUPATION OF LONGEST JOB IN 19[illegible]—MEDIAN EARNINGS IN 1971 OF CIVILIANS 14 YEARS OLD AND OVER WITH EARNINGS, BY WORK EXPERIENCE AND SEX

(Persons 14 years old and over as of March 1972)

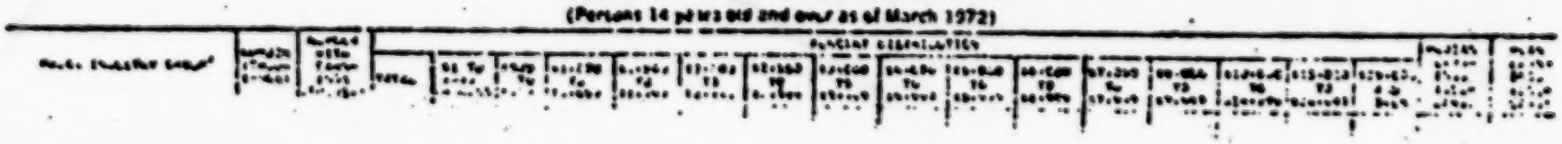


[1] Base less than 75,000.

[2] Data may not be directly comparable with those of previous years. For details see page 11.

Table 57. INDUSTRY AND OCCUPATION OF LONGEST JOB IN 197[illegible]—CIVILIAN WORKERS 14 YEARS OLD AND OVER BY TOTAL MONEY EARNINGS IN 1971, BY SEX AND WORK EXPERIENCE

(Persons 14 years old and over as of March 1972)



UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

SUPPLEMENTAL ANSWER BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' INTERROGATORY NO. 45
(Filed July 20, 1973)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by J. F. Duncan, Consultant-Employee Benefits, submits the following supplemental answer to Interrogatory No. 45 of plaintiffs' interrogatories dated December 28, 1972, and designated "Plaintiffs' Third Interrogatories":

Supplemental Answer to Interrogatory No. 45

D. The tabulation set forth in paragraph A of defendant's Supplemental Answer to Interrogatory No. 45 related to normal childbirths only.

The following tabulation with respect to ectopic pregnancies and caesarian births during the years 1970 and 1971 shows the duration of pregnancy absences (in weeks) prior to the date that the condition terminated for employees at all GE plants and locations.

	1970	1971
Under 1 week	10	5
1 week but less than 2	1	3
2 weeks but less than 3	6	3
3 weeks but less than 4	3	–
4 weeks but less than 5	4	3
5 weeks but less than 6	7	3
6 weeks but less than 7	9	9
7 weeks but less than 8	5	11
8 weeks but less than 9	16	14
9 weeks but less than 10	9	10
10 weeks but less than 11	9	10
11 weeks but less than 12	6	7
12 weeks but less than 13	6	5
13 weeks but less than 14	6	4
14 weeks but less than 15	13	10
15 weeks but less than 16	5	6
16 weeks but less than 17	6	3
17 weeks but less than 18	1	2
18 weeks but less than 19	1	3
19 weeks but less than 20	3	2
20 weeks but less than 21	1	1
21 weeks but less than 22	1	1
22 weeks but less than 23	1	1
23 weeks but less than 24	1	1
Over 24 weeks	10	8
TOTAL	140	125

[Affidavit and jurat omitted in printing]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

* * * * *

SUPPLEMENTAL ANSWER BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' INTERROGATORY NO. 45

(Filed July 20, 1973)

Pursuant to Rule 33 of the Federal Rules of Civil Procedure, defendant General Electric Company (hereafter "GE"), by J. F. Duncan, Consultant - Employee Benefits, submits the following supplemental answer to Interrogatory No. 45 of plaintiffs' interrogatories dated December 29, 1972, and designated "Plaintiffs' Third Interrogatories":

Supplemental Answer to Interrogatory No. 45

D. The tabulation set forth in paragraph A of defendant's Supplemental Answer to Interrogatory No. 45 related to normal childbirths only.

The following tabulation with respect to abortions and miscarriages during the years 1970 and 1971 shows the duration of pregnancy absences (in weeks) prior to the date that the abortion or miscarriage occurred for employees at all GE plants and locations.

	1970	1971
Under 1 week	83	123
1 week but less than 2	16	7
2 weeks but less than 3	8	10
3 weeks but less than 4	4	5
4 weeks but less than 5	6	5
5 weeks but less than 6	5	3
6 weeks but less than 7	1	3
7 weeks but less than 8	5	4
8 weeks but less than 9	6	5
9 weeks but less than 10	2	2
10 weeks but less than 11	2	2
11 weeks but less than 12	1	4
12 weeks but less than 13	1	1
13 weeks but less than 14	1	1
14 weeks but less than 15	–	–
15 weeks but less than 16	–	2
16 weeks but less than 17	–	1
17 weeks but less than 18	2	–
18 weeks but less than 19	–	1
19 weeks but less than 20	1	1
20 weeks but less than 21	1	–
21 weeks but less than 22	–	–
22 weeks but less than 23	1	–
23 weeks but less than 24	1	–
TOTAL	147	180

[Affidavit and jurat omitted in printing]

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND VIRGINIA

[Title omitted in printing]

* * * * *

OBJECTIONS BY DEFENDANT GENERAL ELECTRIC COMPANY TO PLAINTIFFS' INTERROGATORIES

(Filed November 20, 1972)

Defendant, General Electric Company (hereafter "GE"), objects as follows under Rule 33 of the Federal Rules of Civil Procedure to plaintiffs' interrogatories dated September 21, 1972:

Objections to Interrogatories Nos. 4, 5, and 6

Insofar as these interrogatories seek to elicit information with respect to the years 1967, 1968, and 1969, the interrogatories are objectionable because: (1) the information sought is irrelevant and does not appear reasonably calculated to lead to the discovery of admissible evidence; and (2) even assuming the relevancy of the information sought, it would be unduly burdensome to furnish such information.

In explanation of GE's position that it would be unduly burdensome to supply the information sought for the years 1967, 1968, and 1969, the following facts are stated: GE's average yearly employment complement is more than 300,000 employees, with about a 40 percent turnover of employees each year. In order to supply the

requested information, the payroll records of these numerous employees would have to be reviewed and the resulting data would have to be collated. Such payroll records are separated into 90 separate payroll components, the records of which are maintained by GE at 90 separate localities throughout the United States. The payroll components vary in size: the largest includes about 43,000 employees; the smallest about 150 employees. In addition, there are three separate payroll files which would have to be reviewed: one file includes the payroll records of all GE employees who are currently in a working status; a second includes the payroll records of so-called Protected Service Employees–employees who are not currently in a working status but who may return to that status in the future (e.g. employees on leaves of absence); and a third file, actually a series of records, which is stored away and which includes the payroll records of former GE employees.

Objections to Interrogatories Nos. 7, 8, 9, and 10

Insofar as these interrogatories seek to elicit information with respect to the years 1967, 1968, and 1969, the interrogatories are objectionable because they seek information which is irrelevant and does not appear reasonably calculated to lead to the discovery of admissible evidence.

Objections to Interrogatories Nos. 15-32, Inclusive

These interrogatories are objectionable because they seek information which is irrelevant and does not appear

reasonably calculated to lead to the discovery of admissible evidence.

In addition, these interrogatories are also objectionable because it would be unduly burdensome, and possibly futile, for GE to attempt to furnish the information that is sought. Thus GE could attempt to answer the interrogatories only by the onerous process of examining, on a case by case basis, each of the approximately 40,000 Claim Statements for non-occupational Sickness and Accident insurance benefits that are filed each year by GE employees. Such Claim Statement, samples of which are attached, are complex in form; and filed Claim Statements are not retained at a central location, but are on file at various places throughout the United States. Moreover, an examination of the filed Claim Statements would not necessarily show a diagnosis consistent with the information sought by plaintiffs. For example, a diagnosis of cirrhosis of the liver shown on a Claim Statement would not indicate that the underlying cause of the cirrhosis was in fact alcoholism, the factor with which Interrogatories Nos. 15 and 16 are concerned; similarly, a diagnosis of head contusions appearing on a Claim Statement would not indicate that the underlying cause of the contusions was in fact fighting, the factor with which Interrogatories Nos. 23 and 24 are concerned. In sum, to attempt to provide the information sought by plaintiffs with respect to the years 1970 and 1971 alone would entail the examination of more than 80,000 filed Claim Statements located at various places throughout the United States, and such examination would not necessarily elicit the information that is sought.

Objection to Interrogatory No. 34

Insofar as this interrogatory seeks to elicit information with respect to dependents and children of GE employees, the interrogatory is objectionable because it seeks information which is irrelevant and does not appear reasonably calculated to lead to the discover of admissible evidence.

Objections to Interrogatories
Nos. 35, 37, and 38

These objections are objectionable because the information sought is irrelevant and does not appear reasonably calculated to lead to the discovery of admissible evidence.

/s/ JOHN S. BATTLE, JR.
John S. Battle, Jr.
Robert H. Patterson, Jr.
McGuire, Woods & Battle
1400 Ross Building
Richmond, Virginia 23219

Theophil C. Kammholz
Laurence I. Wood
Stanley R. Strauss
1750 Pennsylvania Avenue, N.W.
Washington, D. C. 20006

Attorneys for General Electric Company

Dated: November 15, 1972.

Group Health Claims

Metropolitan Life Insurance Company

NEW YORK EMPLOYEE

STATEMENT OF CLAIM

FOR

ACCIDENT AND SICKNESS WEEKLY BENEFITS

TO BE COMPLETED BY THE EMPLOYEE

(Please answer all questions)

Shift_____

Work Phone_____

Bldg._____

1. Employee's name (Print) Mr. / Mrs. / Miss _____ Age_____ Pay number_____ Dept._____
2. Present address_____ (Number) (Street) (City) (State) (Zip Code)
3. Date you were first disabled by this sickness or injury_____ 19____
4. If you were Hospitalized *as a bed patient*, answer the following:
   (a) Name and Address of Hospital_____
   (b) Date Admitted_____ 19____ at_____ (Hour) {a.m. / p.m.} (c) Date Discharged_____ 19____ at_____ (Hour) {a.m. / p.m.}
5. Was your disability caused by an accident? ☐ Yes ☐ No
   If your answer is "Yes," answer the following:
   (a) When did the accident happen? Date_____ 19____ at_____ (Hour) {a.m. / p.m.}
   (b) Were you at work when the accident happened? ☐ Yes ☐ No
   (c) Give a brief description of the accident_____

I hereby authorize the Physician to release any information requested with respect to this Claim.
I certify that the information furnished by me in support of this claim is true and correct.

Date_____ 19____ Employee's Signature_____

TO BE COMPLETED BY THE EMPLOYER

(Please answer all questions)

1. Employee's name_____ Social Security No. _____
2. Amount of Weekly Benefits—(½ of Employee's Normal Straight-Time Weekly Earnings Rate) $_____
3. Indicate Payroll Classification: ☐ Salary Exempt ☐ Salary Non-Exempt ☐ Hourly
4. If the employee was not actively in your employ when this disability began, indicate below the reason for stopping work
   ☐ Laid off ☐ On leave of absence ☐ Discharged or resigned ☐ Other_____ (Please explain)
5. If this coverage has been canceled, give the date and reason_____
6. (a) Date last worked_____ 19____ (b) Date returned to work_____ 19____
7. If Salaried Employee, give the date through which salary continuance is payable_____ 19____
8. If claim is being considered in connection with Workmen's Compensation coverage answer the following:
   (a) Workmen's Compensation Weekly Benefit Rate $_____
   (b) Period covered by Workmen's Compensation Benefits: From_____ (Date) 19____ to and including_____ (Date) 19____
9. Give information which might assist the Company in the consideration of this claim_____

17500 00 XXX 0

Pension Unit No. (Branch)_____ GENERAL ELECTRIC COMPANY

Location_____

Date_____ 19____ By_____ (Name) (Title)

ON SUPPLIED BY [illegible]

FN-435 B

DOCTOR'S STATEMENT

The doctor's statement must be filled in completely. For item 3-d, give approximate date. Make some estimate. Delay in the payment of Disa Benefits may be prevented.

1. Claimant's Name_____ (First) (Middle) (Last) 2. Age____ 3. ☐ Male ☐ Fema
4. Diagnosis:
   a. Claimant's Symptoms_____
   b. Objective Findings_____
5. Operation Indicated? ☐ YES ☐ NO a. Type_____ b. Date_____
6. Enter Dates for the following:
   a. Dates of treatment for this disability:
      Office_____
      Home_____
      Hospital_____
   b. Date Claimant was unable to work because of this disability_____
   c. Date Claimant will be able to perform usual work_____

Month	Day	Year

7. In your opinion, is this disability the result of injury arising out of and in the course of employment or occupational disease? ☐ YES ☐ NO
   Remarks_____

I am a physician duly authorized by the Chairman of the Workmen's Compensation Board to render medical care under the New York Workmen's Compensation Law.

8. Physician's Name (please print)_____
   a. Office address_____ (Number) (Street) (City or Town) (State) (Zip Code) (Phone)
   b. W.C.B. Authorization Registration No._____ W.C.B. Rating Code_____
9. Date_____ 10. Physician's Signature_____

REMARKS

Group Health Claims—Metropolitan Life

321

STATEMENT OF CLAIM
FOR
ACCIDENT AND SICKNESS WEEKLY BENEFITS

TO BE COMPLETED BY THE EMPLOYEE
(Please answer all questions)

Work: Shift ____ Phone ____ Bldg. ____

1. Employee's name *(Print)* First Name ____ M.I. ____ Last Name ____

Pay number ____ Department ____

2. Present address ____ (Number) (Street) (City) (State) (Zip Code)

Employee's description. ☐ Male ☐ Female Age ____ ☐ Single ☐ Married ☐ Widowed ☐ Divorced

3. Date you were first disabled by this sickness or injury ____ 19____

4. If you were Hospitalized *as a bed patient*, answer the following:

(a) Name and Address of Hospital ____

(b) Date Admitted ____ 19____ at (Hour) {a.m. / p.m. (c) Date Discharged ____ 19____ at (Hour) {a.m. / p.m.

5. Was your disability caused by an accident? ☐ Yes ☐ No

If your answer is "Yes," answer the following:

(a) When did the accident happen? Date ____ 19____ at (Hour) {a.m. / p.m.

(b) Were you at work when the accident happened? ☐ Yes ☐ No

(c) Give a brief description of the accident ____

I hereby authorize the Physician to release any information requested with respect to this Claim.
I certify that the information furnished by me in support of this claim is true and correct.

Date ____ 19____ Employee's Signature ____

TO BE COMPLETED BY THE EMPLOYER
(Please answer all questions)

1. Employee's name ____ Social Security No. ____

2. Amount of Weekly Benefits—(60% of Employee's Normal Straight-Time Weekly Earnings Rate) $ ____

3. Indicate Payroll Classification: ☐ Salary Exempt ☐ Salary Non-Exempt ☐ Hourly

4. If this coverage has been canceled, give the date and reason ____

5. (a) Date last worked ____ 19____

(b) Date returned to work ____ 19____

6. If Salaried Employee, give the date through which salary continuance is payable ____ 19____

7. If claim is being considered in connection with Workmen's Compensation coverage answer the following:

(a) Workmen's Compensation Weekly Benefit Rate $ ____

(b) Period covered by Workmen's Compensation Benefits: From (Date) ____ 19____ to and including (Date) ____ 19____

8. Give information which might assist the Company in the consideration of this claim ____

17500 00 XXX 0

Pension Unit No. (Branch) ____ GENERAL ELECTRIC COMPANY

Location ____

Date ____ 19____ By (Name) ____ (Title) ____

322

ATTENDING PHYSICIAN'S STATEMENT

Patient's name ____ Age ____

Nature of sickness or injury (Describe complications, if any) ____

Did this sickness or injury arise out of patient's employment? ☐ Yes ☐ No
If "Yes," explain ____

Is disability due to pregnancy? ☐ Yes ☐ No
If "Yes," what was the approximate date of commencement of pregnancy? ____ 19____

Nature of surgical or obstetrical procedure, if any (Describe fully) ____

Date performed ____ 19____

Give dates of treatments:
Office ____
Home ____
Hospital ____

The patient has been continuously disabled (unable to work) from ____ 19____ through ____ 19____
If still disabled, when should patient be able to return to work? ____ 19____

Remarks: ____

Date ____ 19____

Name (Please Print) (Attending Physician) ____

Address ____

Phone Number (Include Area Code) ____

Signature ____

FOR USE BY METROPOLITAN LIFE

DIAG. CODE	EMP. DATE	CALL UP WEEKS	DAYS WORKED	ACC.	LETTER NO.	DISP.	SUPR.	CTL.		APPR. NO.	DATE OF REVIEW
1				YES ☐							
2				NO ☐							
3											

Group Health Claims Division

Metropolitan Life Insurance Company

NEW JERSEY EMPLOYEE STATEMENT OF CLAIM FOR ACCIDENT AND SICKNESS WEEKLY BENEFITS

TO BE COMPLETED BY THE EMPLOYEE
(Please answer all questions)

Work: Shift ____ Phone ____ Bldg. ____

1. Employee's name *(Print)* Mr. / Mrs. / Miss ____ Age ____ Pay number ____ Dept. ____
2. Present address ____ (Number) (Street) (City) (State) (Zip Code)
3. Date you were first disabled by this sickness or injury ____ 19 ____
4. If you were Hospitalized as a bed patient, answer the following:
   (a) Name and Address of Hospital ____
   (b) Date Admitted ____ 19 ____ at (Hour) ☐ a.m. ☐ p.m. (c) Date Discharged ____ 19 ____ at (Hour) ☐ a.m. ☐ p.m.
5. Was your disability caused by an accident? ☐ Yes ☐ No
   If your answer is "Yes," answer the following:
   (a) When did the accident happen? Date ____ 19 ____ at (Hour) ☐ a.m. ☐ p.m.
   (b) Were you at work when the accident happened? ☐ Yes ☐ No
   (c) Give a brief description of the accident ____

I hereby authorize the Physician to release any information requested with respect to this Claim.
I certify that the information furnished by me in support of this claim is true and correct.

Date ____ 19 ____ Employee's Signature ____

TO BE COMPLETED BY THE EMPLOYER
(Please answer all questions)

1. Employer's name ____ Social Security No. ☐☐☐☐☐☐☐☐☐
2. Amount of Weekly Plan Benefit, $ ____ Supplementary Benefit, $ ____
3. Indicate Payroll Classification ☐ Salary Exempt ☐ Salary Non-Exempt ☐ Hourly
4. If this coverage has been canceled, give the date and reason ____
5. (a) Date last worked ____ 19 ____
   (b) Date returned to work ____ 19 ____
6. If Salaried Employee, give the date through which salary continuance is payable ____ 19 ____
7. If claim is being considered in connection with Workmen's Compensation coverage answer the following:
   (a) Workmen's Compensation Weekly Benefit Rate $ ____
   (b) Period covered by Workmen's Compensation Benefits: From (Date) ____ 19 ____ to and including (Date) ____ 19 ____
8. Give information which might assist the Company in the consideration of this claim ____

17500 05 XAX 0

Employer Unit No. (Branch) ____ GENERAL ELECTRIC COMPANY

Location ____

Date ____ 19 ____ By ____

ATTENDING PHYSICIAN'S STATEMENT

Patient's name ____ Age ____

Nature of sickness or injury (Describe complications, if any) ____

Did this sickness or injury arise out of patient's employment? ☐ Yes ☐ No
If "Yes," explain ____

Is disability due to pregnancy? ☐ Yes ☐ No
If "Yes," what was the approximate date of commencement of pregnancy? ____ 19 ____

Nature of surgical or obstetrical procedure, if any (Describe fully) ____

Date performed ____ 19 ____

Give dates of treatments:
Office ____
Home ____
Hospital ____

The patient has been continuously disabled (unable to work) from ____ 19 ____ through ____ 19 ____
If still disabled, when should patient be able to return to work? ____ 19 ____

Remarks ____

Date ____ 19 ____ Signed ____ (Attending Physician)
Address ____
Phone ____

REMARKS

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND, VIRGINIA

[Title omitted in printing]

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OBJECTIONS OF PLAINTIFFS TO EXHIBITS WHICH DEFENDANT GENERAL ELECTRIC COMPANY PROPOSES TO OFFER

[Filed July 23, 1973]

Pursuant to the Court's Pre-Trial Order entered herein on October 31, 1972, the plaintiffs object to the following exhibits which the defendant General Electric Company proposes to offer:

1. Defendant GE's proposed Exhibits 3, 10, 13, 42, 44, 45 and 46 are immaterial and irrelevant. These exhibits all relate to the cost of providing sickness and accident benefits for pregnancy-related disabilities. The defendant GE has not plead business necessity, bona fide occupational qualification or any other defense which makes cost relevant. Nor could the defendant have plead cost as a defense for there is no available defense under Title VII to the discrimination at issue. Evidence of cost obviously has no bearing on the question of whether the exclusion of these benefits constitutes discrimination on the basis of sex. Where, as here, the alleged violation of Title VII is overt and no issue of bona fide occupational qualification is presented, the cost of providing the disadvantaged discriminatees with the same advantages as the favored employees, is irrelevant both to the issue of violation and the issue of remedy. *Johnson* v. *Pike Co. of America,* 332 F. Supp. 490 3 FEP Cases 1025, 1029-

10-30 (U.S.D.C. Calif. 1971). Only where the discrimination results from the disparate effect of a neutral policy have the courts considered the defense of business necessity (see *Griggs* v. *Duke Power Co.,* 401 U.S. 424, 91 S. Ct. 849 (1971) and even in such cases they have uniformly held cost is not a defense. See *Robinson* v. *Lorillard Corp.,* 444 F. 2d 701, 799 and fn. 8 (4th Cir. 1971). Moreover the defendant GE at all times from 1960 through 1970, during bargaining negotiations with the plaintiff International Union refused to bargain about costs and insisted that the defendant GE bargained only level of benefits. Respecting the 1960 negotiations see *N.L.R.B.* v. *General Electric Co.,* 418 F. 2d 736, 750 (2d Cir. 1969), cert. denied 357 U.S. 965 (1970). Plaintiffs' proposed Exhibits 42B, 42C, 55, 56, 57, and Exhibits LL, MM, NN and OO to the Pre-Trial Stipulation (Par. 40) are minutes of negotiotion meetings which show the same position was taken by defendant GE in 1966 and 1969-1970 negotiations.

2. Defendant GE's proposed Exhibit 10, to which objection is made on the ground that cost is irrelevant as set forth in Paragraph 1 hereof, is also inadmissible because it constitutes hearsay evidence as to matters which, if true, should be proved by the records of the defendant GE or by testimony.

* * *

4. Defendant GE's proposed Exhibit 12 is objected to for lack of any evidence that the purported letters were ever signed or issued by Charles Duncan and for lack of evidence as to whom, if anyone, the letters were addressed. Counsel for plaintiffs has made inquiry of the EEOC as to the authenticity of said purported

letters and has been unable to verify their authenticity. When counsel for plaintiffs inquired of counsel for defendant as to the source of said letters, the reply was that the letters were received from some law publishing firm, probably from the Chicago, Illinois office of Commerce Clearing House.

5. Defendant GE's proposed Exhibits 27, 28, 31, 32, 33, 34, 35 and 38 are objected to as irrelevant and, if relevant, not the best evidence. If as defendant GE has indicated, these exhibits are offered to show that EEOC has departed from its Guidelines, the fact that the settlement negotiated between EEOC and AT and T does not include a remedy for discrimination by failing to pay sickness and accident benefits, has no evidential value. There are so many possible reasons why the settlement did not include this matter as to make the proffered exhibits immaterial

6. Defendant GE's proposed Exhibit 15 is based on an inadequate sample, does not accord with the statement on pages 1 and 2 of objections by Defendant General Electric Company to Plaintiffs' Interrogatories dated November 15, 1972, that "GE's average yearly employment complement is more than 300,000 employees, with about a 40 percent turnover of employees each year", and is ambiguous and misleading in that it does not disclose the manner in which the conclusions therein stated were reached.

Respectfully submitted,

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Attorneys for Plaintiffs

July 20, 1973

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

[Title omitted in printing]

EXCERPTS FROM TRANSCRIPTS OF PROCEEDINGS

* * * *

327 (July 24, 1973) (Tuesday at 10 o' clock)

THE CLERK: Civil Action 142-72-R. Martha V. Gilbert, et al., versus General Electric Company.

Ms. Ruth Weyand and Mr. Seymour DuBow and Robert Friedman represent the plaintiffs.

Mr. John S. Battle, Jr., Mr. J. Robert Brame, Mr. Theophil Kammholz and Mr. Stanley Strauss represent the defendant.

Are counsel ready to proceed?

THE COURT: Is plaintiff ready?

MS. WEYAND: Yes, plaintiffs are, Your Honor.

MR. BATTLE: Defendants are ready, Your Honor.

THE COURT: Would you, for the record, for the benefit of the court reporter, please, state your name, starting on this side, if you will, please, Mr. Friedman?

MR. FRIEDMAN: Robert Friedman.

MR. DUBOW: Seymour DuBow.

MR. WEYAND: Ruth Weyand.

MR. BATTLE: John S. Battle, Jr.

MR. KAMMHOLZ: T.C. Kammholz.

MR. STRAUSS: Stanley Strauss.

MR. BRAME: Robert Brame.

THE COURT: Thank you.

Are there any motions at this time?

328 MR. BATTLE: I have a preliminary matter, if Your Honor please.

THE COURT: I will be delighted.

MR. BATTLE: If Your Honor please, may I present Theophil C. Kammholz of the Chicago and Washington firm of Vedder, Price, Kaufman & Kammholz. Mr. Kammholz has not previously been introduced to the Court. He was former General Counsel of the National Labor Relations Board and I am satisfied he satisfies the requisite qualifications to practice before this Honorable Court.

THE COURT: Delighted to have you.

MR. KAMMHOLZ: Thank you, Your Honor.

THE COURT: Mr. DuBow?

MR. DUBOW: I wish to intorduce at this time Mr. Robert Friedman as General Counsel for the IUE and member of the Fourth Circuit and the New York bar.

THE COURT: Delighted to have you as well, Mr. Friedman.

MR. FRIEDMAN: Thank you, Your Honor.

THE COURT: Now, there is a motion that was filed this morning on behalf of the Chamber of Commerce of the United States for leave to participate as an amicus. That motion will be granted in accordance with the Court's memorandum of April 20.

329 Are there any other motions in reference to an amicus.

Now, as a preliminary matter, I have gone over the plaintiffs' list of proposed exhibits, as well as the objections filed thereto.

I have one or two questions, and then I will give you my rullings on those objections.

I have not had an opportunity to go over the defendant's proposed exhibits, but I will before you have need for them.

Addressing myself now to plaintiffs, is Brenda Christian referred to in Proposed Exhibit 21 a member of the class?

MS. WEYAND: She is, and she is a named plaintiff.

THE COURT: Thank you.

MS. WEYAND: Of those whom the Court allowed to admit, and she did not withdraw.

THE COURT: But tell me in reference to Exhibit Number 46, who is Owen D. Young?

MS. WEYAND: He at the time he made the speech was the President of General Electric Company.

THE COURT: Thank you.

And Proposed Exhibit 50, Mr. Pettey?

330 MS. WEYAND: Mr. Pettey is the President of the Local at Tyler, Texas, in which this letter refers to the fact that one of the named plaintiffs received a notice telling her that she had to cease work on the given date. And he wrote the Court calling the – the company, calling their attention to your decision in the Cohen case, and they let her work.

THE COURT: All right. Thank you.

On the plaintiffs' exhibits, the objections are sustained as to the following: 59, 60, 61, 62, 63, 64, and 65.

As to 88-C, 88-D, 88-E.

All other objections are overruled.

I might add, Ms. Weyand, and gentlemen, many of the things that are marked as exhibits I don't think really ought to be exhibits, although that is not to preclude one from using them as authoritative sources in argument, research, and matters of that kind.

MS. WEYAND: Could I make a remark on my putting in the group of 59 to 65?

One of the grounds, pleaded grounds, of defense was a good faith reliance upon decisions of the earlier decisions and opinions of the EEOC.

And it would be my contention that these, 59 through

331 64, did not stand in the status of authorities in this case, but I wish to use them in cross-examining the witness they are going to put on in their good faith reliance as to his expertise, his knowledge of what the law was that people had been holding for 10 or 15 years, that sickness and accident was to be treated the same as any other, that a pregnancy illness was to be treated.

THE COURT: You will not be precluded from using them for that purpose.

MR. STRAUSS: I gather you are not going to bear individual arguments on these exhibits?

THE COURT: Not if I can avoid it.

MR. STRAUSS: I would like therefore to note for the record - - well, I would like to ask that the company's objections to the proposed exhibits be incorporated in the record, and I would like further to note that the company's position that we stand on the objections which have been brought to the Court's attention by that document.

THE COURT: Yes, of course.

MR. STRAUSS: Your Honor, may I also at this time make on further observation? Perhaps I am anticipating.

The parties have filed stipulations, as you know, to which there are attached exhibits.

Now, the exhibits, some of the exhibits, also appear

332 on the party's exhibit list. Some of them I am afraid do not.

I would like to know whether or not you are going to go through that at this time and how that would be handled.

THE COURT: No. I have not had an opportunity as yet to go through those.

I will go through them, however, prior to our getting into the meat of anything that is in this stipulation.

All right, I am ready, if you are ready.

MS. WEYAND: I would like to call as the first witness for the plaintiff Dr. David Forrest.

Dr. David Forrest, will you, please, take the witness stand.

DAVID FORREST was called as a witness by and on behalf of the plaintiffs and, having been first duly sworn, was examined and testified on his oath as follows:

THE COURT: I take it that each side has had an opportunity to examine the biographical sketches of the respective witnesses with reference to their expertise.

Does anybody wish to examine the Doctor on his qualifications? If not, and that is the procedure we will use, Ms. Weyand and gentlemen, if not, the Doctors will be qualified.

333

DR. DAVID C. FORREST
DR. FRANK S. KNIGHT
MONUMENT MEDICAL BUILDING
4908 MONUMENT AVENUE
RICHMOND, VIRGINIA 23230

CURRICULUM VITA
DAVID C. FORREST, M.D.

BORN:
June 10, 1918

MARRIED:
Barbara Ann Rodewald, four children

EDUCATION:
Randolph-Macon College, B.S. degree, 1939-1943
Medical College of Virginia, M.D. degree, 1946-1950
Graduate training, residency in Obstetrics and Gynecology, Mt. Carmel Mercy Hospital, Detroit, Michigan
Affiliated residency University of Michigan, Ann Arbor, Michigan, 1951-1954
Licensed to practice medicine in the state of Virginia, 1950

FACULTY APPOINTMENTS:
Medical College of Virginia
Virginia Commonwealth University

SOCIETIES:
Diplomat, American Board of Obstetrics and Gynecology
Fellow, American Obstetrical and Gynecological Society
Member, American Society of Fertility and Sterility
Member, Virginia Medical Society
Member, Richmond Academy of Medicine

Member, Richmond Obstetrical and Gynecological Society
Member, American Medical Association
Memcer, American Cancer Society, President Richmond Division
Member, Richmond Chamber of Commerce
Chairman of the Department of Obstetrics and Gynecology, St. Mary's Hospital.

334 I take it nobody wishes to examine?

MR. BATTLE: No, sir.

THE COURT: The Doctor is qualified as an expert in his field.

All right, you may examine.

DIRECT EXAMINATION

BY MS. WEYAND:

Q. I would like to show the witness the vitae and have him state whether he prepared it.

I show you the vitae of curricula that has been filed here and ask you if you prepared that biographical sketch?
A. Yes, ma'am.

Q. Have there been any changes since you prepared this biographical sketch which should be made to make the statement accurate as of the present time?
A. None to my knowledge.

Q. How many babies have you delivered during your practice? A. Perhaps somewhere in the neighborhood of five to six thousand.

Q. Do you know how many you have delivered in the last six or seven years? A. I asked the hospital to prepare a memorandum for me as to the exact number.

335 Since 1966 at St. Mary's Hospital I have delivered 2,824, not including one this morning at eight o'clock.

320 since the first of January this year.

Q. Does your practice represent a specialty within the

field of obstetrics and gynecology? A. My practice is both gynecological and obstetrical and a fairly large segment of the practice is devoted to the study, treatment, and management, of patients who have special problems. That is, they are experiencing difficulty in becoming pregnant and/or having children.

They are problem cases. And perhaps 10 to 15 percent of my practice are problem cases.

Q. Then from that I would take it your percentage of complicated cases is higher than that of the average practitioner of obstetrics, is that correct? A. Well, I don't like to make myself that much of an expert, but perhaps in my own mind I probably am.

Q. Could you state the ratio of complicated and non-routine cases of your practice as compared with that of the non-specialized practitioner? A. I don't like the

336 term "non-specialized practitioner" except in the sense that one who delivers children, who is not a member of the specialty of obstetrics and gynecology, but within the ranks of my colleagues, I would not like to speak for them, I can only speak for myself, but I would say that it is in the neighborhood of 10 or 20 percent.

Q. Do your patients come from any particular socio-economic group? A. I think they come from all social stratas, from the highest to the lowest.

Q. Approximately what percentage of your patients were employed in paid jobs outside the home when they became pregnant? A. Of those girls who are having their first pregnancy, I would say probably 50 to 60 percent are employed.

Q. Do you have occasion to advise pregnant patients with respect to whether they should continue their employment during pregnancy? A. Yes. Most of the time the question is put to me through their employer

when they bring in written inquiries asking me how long they can work and when is the expected date of confinement.

Yes, I do have requests.

337 Q. What advice do you give such pregnant patients? A. I usually say that they may continue to work as long as they feel able and they can work right up to the time of delivery barring any complications.

Q. Does pregnancy itself unaccompanied by any complications in the normal healthy woman require her to cease engaging in the same activities after pregnancy as she was accustomed to engaging in prior to pregnancy? A. I woud say no.

Q. How do you define disease? A. The term disease, and I intentionally looked up the definition in Dorland's 25th Edition of Medical Dictionary and was quite surprised. I would like to just read it out, if I may.

The first statement under the word "disease" they say, "Is a definite morbid process having a characteristic train of symptoms. It may affect the whole body or any of its parts, and its etiology, pathology, and prognosis may be known or unknown."

Then under this there are 18 columns listing numerous diseases.

In my own mind I like to break the word "disease" down to the "dis" and the "ease." And the prefix, "dis," meaning the reverse, and I think of it in terms of the patient's, the individual being in a comfortable state, is

338 suddenly conscious of certain stresses that have been placed on the body mechanism and he now becomes diseased or undomfortable, sufficient to seek out or ask for medical attention.

Q. In the list that appears in Dorland is fractures listed as a disease? A. No, it is not.

Q. Are all fractures a result of accident? A. No, not necessarily. I am not an orthopedist, but I can assure you that not all fractures are the result of accidents.

Q. Some fractures are a result of a morbid condition, are they? A. Yes. There can be spontaneous fractures, secondary to spontaneous degeneration of bone structure which may be secondary to a pathological state.

Q. Is alcoholism included in the list of diseases in Dorland's Medical Dictionary? A. No, it was not listed.

Q. Is obesity listed in the definition? A. Not to my knowledge.

Q. Are migraine headaches listed as a disease? A. Not under the term "disease."

339 Q. Is it uniform medical practice to advise pregnant women to seek medical assistance and advice as early as they know they are pregnant? A. I think that over the ensuing years there have been more and more emphasis placed on encouraging the woman who thinks that she may be early pregnant, that she should seek medical attention as early as possible, yes.

Q. Could you state the medical reasons for such encouragement to women? A. When she places herself in the hands of a physician she immediately would have a complete history taken, physical examination carried out, and any concomitant diseases that she may have, or any past family history of diseases would be picked up.

And she can be cautioned about the hazards of certain drugs and, X-ray exposures and so forth.

But more importantly, I think she can have a confidante, someone that she can ask rather than get across the back fence consultation.

And the early signs or symptoms that may develop suggesting a complication, can be attended to.

Q. Is it important that these signs be noted at the earliest possible time? A. Oh, I would think so be-
340 cause the earlier the complications are picked up the better the chance of proper management.

Q. Does the medical profession consider it conducive to the successful termination of a pregnancy that good medical managment and supervision take place throughout the pregnancy? A. I would say that is true, yes.

Q. What type of medical management and supervision is customary in your practice and in the profession?
A. Well, I can speak better for my own practice.

We see these young ladies as soon and as early as — well, they present themselves, but those patients that we are studying, we encourage them to report to us within two weeks after their missed menstrual period.

And a pregnancy test is usually performed.

Then the patient is given a series of instructions and within a short period of time she has a complete physical examination, complete history.

A complete blood count, complete urinalysis, tests for syphilis, and some patients that may show some signs that suggest it, smears for gonorrhea, a cancer smear if one has not been done recently.

341 This is at the time of the initial workup.

Now, do you want me to go on?

Q. Yes. I wanted you to go on as to what management and supervision is given throughout the course of a pregnancy in your practice. A. Well, at the time of the initial visit we usually ask her if she is having any side effects, such as morning sickness, nausea.

And if she is we would prescribe an antinausea preparation.

She is instructed on proper diet. She is instructed on the length of time that she may have intercourse, tub baths, douches, cleanliness, etc.

She is instructed in the fact that we do not want her to take any drugs of any type other than the ones that are prescribed. And if she is taking any drugs or has taken any drugs prior to the time we see her we will note this fact and discourage her if it perhaps is an over-the-counter type of preparation.

We warn them against X-ray exposure, even X-rays.

We tell them that they may continue as close as possible their usual routines. And this is about as much as is carried out at the time of the first examination.

342 Q. Could you in very general terms indicate what kind of management and supervision takes place throughout the pregnancy? A. Well, at the time of the first examination, of course a complete examination including a pelvic examination is done. And then she seen at monthly intervals if the patient is not having any particular problem.

She has been instructed to write out any questions that she might have that have come up in the meantime and these questions are answered.

We pay particular attention to the growth of the uterus, simply measuring the abdomen, if the pregnancy has reached the point where it can be measured.

We listen for the fetal heart rate. We check for any signs of edema. We check for weight gain, elevation in blood pressure.

This goes on until about the seventh month. At the seventh month they have been seen every month. At the time of the seventh month a complete reevaluation of the pelvis is carried out, that is to the bony structure. And then at that time, or in the meantime, we have been keeping close contact as to her hemoglobin and watched her very carefully for any signs of urinary tract infections.

343 We have tried to check on these things. And now we become a little bit closer in the sense that we begin to see them at two-week intervals. Then in the last month we see them each week – at each visit they have a pelvic examination to determine the condition of the internal organs, whether or not the cervix is beginning to dilate, what position the head is taking in the birth canal, and so forth.

Q. Is there any medical reason that the normal pregnant woman should discontinue her employment anytime before the onset of labor? A. Would you restate that?

Q. Is there any medical reason that the normal pregnant woman should discontinue here employment anytime before the onset of labor? A. Yes. There are certain complications that may come up.

I think if we note elevation in blood pressure, she is beginning to spill any protein in her urine, that might suggest tht she is beginning to become slightly toxic. We may encourage more rest and try to take off some of the stresses that would aggravate this.

344 If the woman has any bleeding problems, particularly in the last trimester, if we find that the cervix is dilating prematurely such that it would suggest that she will have perhaps a premature birth, if she has twins and we diagnose her having twins, certainly in that last month to six weeks we encourage more bedrest and less standing.

I think that about covers it. There probably are others.

Acute urinary tract infection where the patient develops fever, chills, and so forth, this may be another complication.

Q. Except for some complications or indications of something unusual, is there any medical reason for a normal pregnant woman to discontinue her employment

at anytime before the onset of labor? A. When you say medical reason I presume that you are implying that there is some abnormality in the pregnancy.

Q. I meant as a medical man do you think she can work unless there is something wrong until she goes into labor? A. If the pregnancy is progressing normally I would suggest these people could go right along and continue working.

Q. As far as a medical reason there is no medical reason why she shouldn't progress that way if she has nothing that you regard as a deviation from a completely normal healthy pregnancy, is that correct? A. That is correct.

345 Q. Has it been your experience that patients who continue to be gainfully employed on a full-time job outside the home during pregnancy have a greater incidence of complications during pregnancy than women who stay at home? A. I would say it is my over-all general impression that the patients who work seemingly tolerate their pregnancy much better than those who do not.

Whether this is because of the fact that they are in gainful employment, that they are not as conscious of themselves, are not constantly looking for problems, but they seemingly complain considerably less than those who are not employed.

Q. Do you personally know or have you treated anyone whose employment during her pregnancy has had a detrimental effect either on her physical health or the health of the child to which she gave birth as a result of that pregnancy? A. I don't understand what you are trying to ask me.

Q. Did you know of anyone who had anything go wrong that you thought wouldn't have happened if she hadn't been working that you attributed to the fact she

worked, is what I want to ask you? A. There may have been, but right at this moment I can't – I don't have a specific case that I could quote that I can truly
346 say that I would relate to that.

I can't say that I really do have any particular cases that I could call to mind.

I am sure there may have been, but I don't know.

Q. Do you recall having at the time that some complications occurred, having decided, without remembering the specific case, do you have a recollection of having decided that this woman had a complication that arose because she worked, which she might not have had had she not worked? A. I am trying. I really cannot.

I can reverse this and tell you that there are instances when the complication arises and I turn to the patient and say, "Are you working," and if she says she is I say, "Well, what kind of work are you doing?" Then I may relate my treatment, to the fact that she is employed, to the extent of saying, "Well, I think that you perhaps should stop." But to actually have someone call me and say, you know, that I am working at this particular thing and it is causing me to have so and so, aside from perhaps swelling of the feet, I have some woman who on standing, particularly in the last trimester of pregnancy, where her occupation requires her to stand in one position, this is perhaps the only – and this is a minor complaint. But as far as a major complaint, I really cannot.

347 Q. In the normal, healthy woman does pregnancy usually result in any period of disability prior to the onset of labor? A. In the normal patient does pregnancy what?

Q. Result in any disability, inability to conduct her usual activities? A. I would think not.

Q. It has been your experience that that does not happen?

A. That is correct. Abnormal complaints, not normal complaints.

Q. Is there anything about pregnancy of a normal, healthy woman which requires any restrictions on her usual activities prior to the onset of labor? A. I can't think of any. I may not be answering that question correctly.

Q. You can't think of it. Well, that is the best you can do.

Do all non-routine and complicated cases of pregnancy require the woman to stop working outside the home? A. No. I don't understand your question. The way you frame them confuses me.

Q. I am sorry. A. So I apologize for having to ask you to repeat them, but would you state the question again?

348 Q. Yes.

The question is whether every condition which the medical professtion regards as a complication necessarily requires her to stop working at her usual paid job outside the home? A. My answer to that is still no because there are different types of complications and some of them are minor complications and they would not of necessity require them to quit work.

Q. So not every complication means that she has to stop work.

Do you have any idea what percentage of complications are of the type that require a woman to stop work? A. Well, I think we would assume that most of the major complications, and I have to divide them between major and minor and the different meaning, say, for example a major complication would be a woman who in the last or, say, approximately six months or seven months pregnant suddenly starts experiencing cramping, excessive bleeding. That would prompt you to hospitalize this

patient and manage her in the hospital for several days. That would be a major complication. On the minor side,
349 if she has frequency and urgency and a urinalysis shows she has a low-grade urinary infection, you would treat the urinary infection and advise her to increase fluid and let her go on to work. That would be a minor type of complication. Does that answer your question?

Q. That answers my question. Could you make a general list of the major complications? A. Hypertension associated particularly with any edema and weight gain, particularly in the last trimester of pregnancy. Hemorrhage, vaginal hemorrhage, and severe or acute urinary tract infections. These are the things I think of. I am sure there are others, but it is not easy when you are sitting here thinking from one of these questions to the other.

Q. And on the minor complications which do not indicate you should stop work, would you list the ones that come to your mind in that regard? A. Urinary tract infections with minor symptoms. In the first trimester of pregnancy some slight bleeding, I would manage and still let the girl go to work if she felt she wanted to go and she wasn't concerned. Headaches,
350 fatigue, particularly if it is secondary to anemia. These I would consider – oh, vaginal tract infections. I am sure that they – they are increased in certain individuals during pregnancy. I wouldn't consider this a major consequence. Under a major, which I didn't mention, would be premature rupture of the membranes. I would have to include that. And signs of premature dilation of the cervix would be another major one. The minor ones I believe I have compteted [sic].

Q. Have you had pregnant patients who failed to follow your advice that they should cease work?

A. Yes.

Q. Have they on occasion–can you generalize about the kind of reasons they give you for failing to follow your advice? A. Generally it is economic pressures at home. "I just can't quit, Doctor, we just have to have the income." And that would perhaps be the major one. Every now and then you get some dedicated soul who feels more that she should stay at work rather than take good care of herself, but that is a medical rarity.

351 Q. Have you been visited by women who had suspected they were pregnant but delayed their first visit to a doctor until the later months of pregnancy?
A. Oh, yes.

Q. Have you had them explain their reasons for so conducting themselves? A. Well, the first one that comes to my mind is the fact that they didn't want to believe that they were pregnant and they just obviously couldn't believe that they were pregnant. But the other reason that comes to my mind immediately is that they shun the diagnosis, particularly those who might be working, and sometimes if they are, certainly if they are pregnant out of wedlock, they may not want it known. But most instances that I am thinking about, and I think what you are asking me, is do they seem to delay if they are working. I think many times these girls, because of certain company rules, will hold back, hoping that they can disguise the fact. And they even go so far as to ask us would we cheat a little and say they are not as far pregnant as they are, and so forth.

Q. And have they complained further why they
352 wanted you to do that, what those company rules are?
A. Most of the time they just don't want to have to quit so early and they give this as their reason for not wanting their employers to know.

Q. Are a substantial number of the pregnant women who come to you covered by insurance policies which would cover their hospital and medical expenses, including your bills? A. I would say the majority of them are under some type of insurance coverage, either through their own, most of them, or their husband's and not necessarily through their own company.

Q. Have you had occassions where a pregnant patient asked you not to send a bill for your services to the insurance company? A. Yes.

Q. What reasons have they given you? A. Well, they were pregnant and did not want the company to know that they were pregnant. Either they were pregnant out of wedlock, for example, or in some instances they just don't want the people at the plant to know about it. These health forms you have to turn in sometimes through the front office and everybody and his brother soon finds out everything about your disease.
353 You can't be sick privately anymore.

Q. Is it accepted medical practice in this country that a woman needs to be hospitalized immediately prior to childbirth and for a period of several days following childbirth? A. I think that the trend over the past 20 to 25 years has been to hospital-type delivery and care, yes.

Q. How often do you perform episiotomies?
A. Probably 95 per cent of the time.

Q. What is an episiotomy? A. An episiotomy is that incision which is made between the posterior opening of the vagina and the rectum. And this incision releases muscles and fiberour tissue, and allows a larger opening for delivery of the baby. It is not an absolute necessity. There are still women who can have babies without episiotomies, but in most instances, particularly with the first baby, if you don't make it

nature will make it for you and a tear is much harder to repair than an incision. So we try to relieve the tension on the vaginal outlet by doing an episiotomy.

Q. Do you perform an episiotomy at the same time
354 that the canal is fully dilated, or do you perform it before the birth canal is fully dilated? A. This is almost the last thing you do before you deliver the baby. The baby's head is now at the outlet, or actually, you can frequentiy see as much as a quarter's worth of the top of the baby's head when we make the incision. Sometimes with forcep deliveries we will pull the head down and then make the incision after we have applied the forceps.

Q. Do you ever shorten labor by performing episiotomy? A. Oh, I think the labor can be shortened by an episiotomy, but more importantly it can be shortened with a controlled forceps delivery.

Q. You use both of them to shorten the labor period, is that correct? A. Yes.

Q. Do you use an anesthesia when you perform an episiotomy? A. Yes, an anesthetic is required, or should be. There are occasions when it is not done because you can't and this is usually in the case of a precipitous delivery, one who arrives at the hospital at
355 the last minute. And surprisingly enough, you can make this incision and the girl doesn't complain too much at the time, but in the repair of it, she wants something so you would anesthetize the area.

Q. What methods of repair do you use? A. I use absorbable sutures.

Q. Are those the same that are used inside other types of surgical incisions? A. Yes. Same cat gut.

Q. And the same type of anesthesia is used as is used in other surgical incisions? A. It may be the same type. Most, I would say that 99 per cent of the

patients that I deliver are delivered under an epidural or block type of anesthesia. And we also use that at the time of hysterectomies, for removal of ovarian tumors, cysts.

Q. Used for other types? A. Yes, ma'am.

Q. In addition to those you have mentioned?

A. Yes, ma'am. It is used in surgery on the male as well as the surgery on the female.

Q. If there is not an episiotomy and the tears occur, do you use the same form of sutures to repair the tears?

356 A. Yes.

Q. And you use an anesthesia at the time you repair the tears, do you? A. Yes ma'am.

Q. How many women do you have delivered that neither tear nor have an episiotomy? A. A very small proportion.

Q. Could you estimate? A. I would say somewhere, maybe as low as one per cent. There is a reason for this. With the routine use of the episiotomy the woman's anatomy is replaced, and in such a manner that each succeeding pregnancy she comes back with good pelvic support. If she were not repaired, in the succeeding pregnancies she would not have any tear because there she would have opened herself up so completely that this would increase her chances of not having an episiotomy. In other words, I am implying that if she is not properly repaired.

Q. Does the birth of a child always result in a period of restriction of usual physical activities on the part of the woman? A. Yes. We place certain restrictions on patients immediately following delivery.

357 Q. What restrictions do you place? A. Well, we usually tell them they cannot get up for at least six hours. That is primarily to allow the anesthetic to wear

off so that their motor systems have returned to normal. And at the end of six hours, usually with a nurse in attendance, they are encouraged to get up and go to the bathroom, to void. And by 12 hours, 12 to 18 to 24 hours they are back taking care of themselves pretty well. They may take a shower the next morning. This is in the hospital restrictions. We are primarily concerned with them not getting infected.

Q. How long, on the average, does the period of restrictions on the normal activity after childbirth continue? A. There are some restrictions placed on them, on the physical activity, up through the six-weeks checkup. Do you want me to elaborate on that?

Q. I would appreciate it if you would, yes.

A. Well, generally after four to five days these patients are usually discharged home to their own home care, and they are told that they should avoid tub baths, douches, intercourse, until they are checked at six weeks. They are advised to continue their vitamin and iron supplement. In our practice we do not encourage them to

358 take a lot of exercises, because we find that this is fatiguing and can sometimes cause bleeding. They are allowed to go home. They may go up and down the steps. They may go out. We try to keep them from driving a car for three weeks, primarily so they don't assume a lot of chores at home that other people would help them do and get out and run around too much. But they could probably drive. Until the six-weeks checkup, at which time, at the time of that examination, we would determine whether any further restrictions are placed on them. And of course the nursing mothers, surprisingly enough, we give them a little more liberties than the ones who are not nursing.

Q. Based on your experience, how many weeks after childbirth do you usually certify a patient as capable of

going back to her paid job outside the home?
A. Six weeks.

Q. Do you ever certify a woman earlier than six weeks? A. Yes. On occasions, if there has been—if she happened to have had a premature birth or had a still born or a birth and she did not have an infant, these
359 girls come in and beg to go back to work early. They want to go back. So we think for their psychological benefit the quicker they get back into their normal routine the better for them. So these individuals we will encourage. We do have requests from other patients who want to go back earlier, but because of the community acceptance we generally stick to the six-weeks rule.

Q. What is the minimum period between childbirth and the date which you have certified a patient as capable of returning to her job? A. By that do you mean that if in my past experience I have ever allowed a person to return?

Q. That was the question. A. I think three weeks.

Q. Given the opportunity to follow a patient through pregnancy, do the complications which sometimes occur require any different medical procedures than illnesses which occur in non-pregnant patients? A. A pregnant patient is no different than anyone else. She has certain diseases which are peculiar to her pregnant state, but she is still liable to all of the other diseases that anyone else can have; and they are managed as much as possible as you would manage them if the girl were not pregnant. With certain restrictions on drugs, X-ray diag-
360 nosis and so forth, generally speaking the management is the same.

Q. Is the management the same of the pregnant condition, the conditions that are due solely to pregnancy, is there a different medical type of approach to pregnancy

complications, different types of procedures, terms of basic medical attitudes towards management and supervision of those related to pregnancy than those not related to pregnancy? A. Well, I think good medical attention is good medical attention and it has to be designed around the specific problem. And the attention to the details and the management would be the same, as far as I am concerned.

Q. Can you name various complications of pregnancy which actually represent illnesses suffered by non-pregnant women and males? A. Would you state that again?

Q. I believe you said that pregnant woman does get various of the diseases which she would get if she wasn't pregnant, which some people regard as related to pregnancy and may occur a little different type than a pregnant woman. Would you name some of those?
A. Say for a streptococcus sore throat, a gall bladder
361 disease? Diabetes?

Q. Diabetes is the same in a pregnant woman as the non-pregnant? A. A patient that has the diagnosis of diabetes and is pregnant is considered high risk. These people are placed in a high-risk category because the pregnant—the stress of pregnancy plus the stress of diabetes makes them have a very high fetal mortality. And if they are not closely managed they can get into trouble. We work closely with a specialist in the field of diabetes who just treats diabetes or is particularly interested in diabetes, and we manage the pregnancy and he manages the diabetes.

Q. Are there other conditions besides diabetes which exist prior to pregnancy that require the same additional attention during pregnancy because of the pregnancy?
A. Patients who present themselves with any type of chronic illness that requires medications. For example, a

thyroid disease. A patient who has certain types of colon diseases, certain types of kidney diseases, heart diseases. You have to treat the whole person and consider the disease and consider the pregnancy. And they are managed in accordance with good medical treatment.

362 Q. In a wound inflicted by a Caesarean operation or medical incision involved in a Caesarean operation basically different from the medical incision involved in other abdominal operations? A. No.

Q. Does the effect on a woman of surgery for a Caesarean delivery differ medically speaking from the effect on her of other surgery? A. If you are speaking just of the wound, I don't think there is any difference, but the extent of the surgery that is carried out after you open the abdominal cavity might be different and the period of recovery and management would be different. But as far as the wound itself, I think it would be the same.

Q. Are there other abdominal operations that have as small a wound and as short a period of recovery as that from a Caesarean operation? A. Hysterectomy, removal of an ovarian cyst, you can do a lot of work through the same type of incision.

Q. Are there non-pregnant related conditions through which you use as small as an incision? A. Yes.

Q. For instance? A. Fibroid tumors where we

363 would do a myomectomy for the removal of the fibroid tumor. In our practice we do tubal reconstructive surgery, that is tubal plastic surgery in young ladies who, because of some concomitant disease or congenital deformity have a failure of the ability to pick up the ovum from the ovary. An appendectomy can be done through this small incision. Certain types of bladder operations may be done through this same incision.

Q. Do you know the reasons upon which employers rely to support their practice of affording income maintenance such as sick pay during periods of absence from work?

MR. BATTLE: Objection, Your Honor. I don't believe that is within the scope of this witness' expertise.

THE COURT: Objection sustained.

MS. WEYAND: I asked if he was acquainted with the grounds on which they make payment. The question is does he know what grounds they–if he doesn't know I can put some hypothetical –

THE COURT: He can only know what might have been said to him as to what grounds were asserted to him.

MS. WEYAND: All right. I would like to put some hypothetical questions based then on the grounds which appear in the – give him a hypothetical question with

364 his medical application of the reasons.

THE COURT: Now, Ms. Weyand, the rule, and perhaps it is unfair to invoke it against you at this stage of the proceedings, but the rule in the district is that any hypothetical must be in writing and submitted beforehand. Will it take you very long to write it down?

MS. WEYAND: I have it written, as a matter of fact. And as a matter of fact I will see if I have an extra copy here.

THE COURT: We can get a copy.

MS. WEYAND: Yes.

THE COURT: Have you seen it, Mr. Battle?

MR. BATTLE: No, Your Honor.

THE COURT: Suppose we take a brief recess so you may look at it. Dr. Forrest, you may step down, Sir.

(The witness stood aside.)

THE COURT: The court will stand in a brief recess.

(A recess was taken at 11 o'clock to reconvene at 11:12.)

THE COURT: All right. (The witness resumed the stand)

365 BY MS. WEYAND:

Q. During the recess you indicated to me that you felt you had not made clear your answer about the per cent of complications which occured in your practice and stated you wished to explain more fully what you meant. Would you, please, do that now? A. I would like to clarify the statement to imply that the patients, by past history of problems, would require additional management during pregnancy. I didn't mean to imply that 15 per cent of my deliveries were complicated. And of necessity they require some specialized care and management, but not necessarily that the deliveries themselves were 15 per cent complicated.

Q. Thank you. I am going to ask you to assume the following facts for the purposes of the next several questions. Assume that the defendant, GE, provides income maintenance in the form of sickness and accident benefits for non-occupational disease; that non-occupational sickness and absences because such payments are believed to increase production in three ways, one, an employee who does not need to worry about the possibility of a period of illness without any pay is a happier employee and therefore produces more, two,

366 an employee who fails to go home because he cannot afford to forego his income when he feels below par not only produces less but has a bad effect on the productivity of other employees and, three, an employee who has income maintenance is able to take proper care of himself or herself by being economically free to take off work and stay off work as long as necessary to get well so that he or she comes back fully recovered at an earlier date, the theory being that

if he or she has no income maintenance he or she will continue working when he or she should be away from work and under medical treatment. Now, those are the facts I wish you to assume. In terms of these three reasons for granting sickness and accident benefits, is there any less reason to pay sickness and accident benefits for disabilities from pregnancy and childbirth than in cases of other disabilities having regard to the medical aspects?

MR. BATTLE: If Your Honor please, I object to the question. It assumes many facts not in evidence. In addition, it calls for an opinion in the field of sociology or economics, possibly employee-relations, but certainly not for an opinion in obstetrics.

THE COURT: I understood it was limited, though, to the medical reasons.

367 MR. BATTLE: I hear no mention of medical reasons nor any inference that that has anything to do with obstetrics.

THE COURT: The objection is overruled.

MR. BATTLE: May I ask that counsel read or show me where the term "medical" is used.

MS. WEYAND: I added it on the end when I asked him the question.

THE COURT: Excuse me.

MR. BATTLE: It wasn't in the draft, Your Honor.

THE COURT: Address yourselves to the bench. It was not in the hypothetical, but she did restrict it to medical. If not, I do. Can you answer it, Doctor? Can you remember it?

THE WITNESS: The question, the last part of the question will be sufficient, if you would restate that.

BY MS. WEYAND:

Q. In terms of these reasons for granting sickness and accident benefits, is there, from a medical point of view, any less reason to pay sickness and accident benefits for disabilities from pregnancy and childbirth than in
368 cases of other disabilities? A. I can think of no differences.

Q. From a medical point of view do the disabilities which a woman suffers from in the normal childbirth differ from disabilities from any other cause in any way which would make sick leave with pay any less reasonably related to increased production in cases of absence due to childbirth than in cases of any other disability?

MR. BATTLE: If Your Honor please, may it be understood that my objection is a continuing one?

THE COURT: Yes. Of course.

MR. BATTLE: To all subsequent questions based on the hypothetical.

THE WITNESS: I can think of no particular reason that there would be any difference.

BY MS. WEYAND:

Q. Would the same be true as to a complication of pregnancy? A. No. If a patient is uncomfortable and is in a state that requires medical attention, I don't see that there is any difference.

Q. Are there any diseases which occur only in members of one sex and not in persons of the other sex?
369 A. Oh, I think so.

Q. Can you name some of these diseases? A. Well, I think we can take off with the simple –

THE COURT: I am sorry, I didn't hear your last answer, Doctor.

THE WITNESS: I think we can assume, first off, that males do not get pregnant. The complications that would ensue from that would be one. Males get breast

cancer, breast cysts. I don't recall of a male ever having Bartholin's abscess. I don't think males develop vaginitis. There are tumors of the pituitary that may in time produce Galactorrhea, which is milk secretion. I don't believe there are reported cases of that occurring in the male. Any diseases relating to the specific organs such as the ovaries, the uterus, the vagina I think would be unique to the female of the species and not to the male. There is one exception. There is a condition of chorio-carcinoma in which there is a related disease in the male that develops in fetal breast tissue, but this is spontaneous in the male as a result of, probably embryonic rest. That
370 is about as far as I dare go. I don't treat males.

Q. Excuse me. Can you name some diseases which occur only in males? A. I remind you, I have not treated a male for 20-some years, but I think prostatitus, and balanitis – I am not very good on male diseases.

Q. But there are diseases which occur only in males?

A. That's right.

Q. That is not in your specialty? A. That is correct.

Q. Is it easier for an employee to malinger with respect to a disability for pregnancy with the object of receiving sickness and accident benefits from his ability to malinger with respect to other disabilities?

A. I don't believe there would be a great deal of difference since I think malingering in itself is psychologically oriented. I don't believe there would be any difference between the female and the male if that is what your implication was.

Q. Is there anything about the medical aspects of pregnancy which would contribute to the ability to malinger as compared to other diseases? A. I don't think so.

371 I think that among laymen there is probably a tendency towards protecting motherhood and the ladies perhaps might use this pregnant state to encourage a little bit more sympathy, but I don't think so, no.

Q. From a medical point of view, do you advise a woman who cannot afford a period of several months without income to have an abortion? A. No.

Q. Why not? A. Well, first of all I am opposed to abortion per se. Secondly, those who seek this form of management are liable to certain complications pursuant to that type of treatment which I am acutely aware of. Except in those specific instances where there are strong medical indications for this, I think it is sometimes used as a mechanism to failsafe after having not taken proper precautions to that point.

Q. What are the medical reasons for not having an abortion? A. What are the medical reasons for not having an abortion?

Q. The complications you mentioned that might arise. A. Well, infection in the uterine tract is one.

372 Perforation of the uterus during the procedure with subsequent hysterectomy to manage this problem in some instances is another. I think these are the two major ones. The psychological consequences are still there, but they are discounted by many authorities.

Q. Do the perforations and infections occur even when the abortion is managed under hospital and licensed doctor conditions? A. Unfortunately yes.

Q. Does a person who becomes pregnant voluntarily bring on herself the disabilities that may befall a pregnant woman in any different respect than the manner in which a person who drinks alcohol voluntarily brings himself a problem of alcoholism? A. Now, you are talking in terms of the voluntary act that precipitated

the consequence? I don't think there is a great deal of difference.

Q. Does a person who becomes pregnant voluntarily bring on herself disabilities that may befall a pregnant woman in any different respect than the manner in which a person who smokes voluntarily brings on himself lung cancer or emphysema? A. Accepting the fact that excessive smoking contributed to lung cancer and emphysema, the fact that the patient is knowledge-

373 able these things are detrimental, and after medical advice continues, I don't think that that would be a great deal different than the girl who allows herself to become pregnant for purposes of procreating.

Q. Are all women able safely to take the pill?

A. No.

Q. What conditions disqualify a woman for use of the pill? A. This is a very broad question and there is considerable literature that has been written on this subject and any comments that I make will have to be very limited. Those who should be advised against the use of the pill would be patients with hypertension, hypertensive disease, the diabetic, certain patients with thyroid disease, young girls who present themselves with a poor menstrual history, that is their ovulation mechanism already is in jeopardy, patients with varicosities or certain types of muscular disease, some patients who cannot handle them because of the psychological changes that occur such as severe migraine headaches and personality changes. Also the patient who has certain other endocrine diseases where they may be contraindicated, past history of cancer of the breast, for example, where the estrogen would be contraindicated. These are some of the ones that I think about.

374 Q. From your answer you would indicate that the pill has quite an effect on a very large portion of the woman's glandular and psychological system. Could you speak about the effect of the pill and how it operates?
A. The pill, as it is known, comes in various forms. Generally it includes a form of female estrogen. This estrogen is a chemical estrogen and it may or may not be combined with small doses of a second hormone substance, progesterone. The dosage varies with various of these pills, but in the final analysis the mechanism is thought to be the interference with the signal system that comes by way of the pituitary to the ovary to say, "Do not produce any more eggs or any more ovum." Much as what would happen to a young lady who is in her early stages of pregnancy. Once a woman becomes pregnant she ceases producing ovum or bringing the ovum to maturation. So the mechanism is then to interfere with the production of ovum. And in some authors' way of putting it, they are kept in very, very early stages of pregnancy as far as the physiodynamics of their body is concerned.

Q. How extensive is the effect on the physiodynamics of their body? A. Here again it is an individual reaction. Some individuals just cannot tolerate them because of the nausea that they produce. Others cannot
375 tolerate them because of the headaches. Others complain of swelling, breast changes and weight gain. There is some indication that it suppresses the thyroid. It has a deleterious or suppressive action on the pancreas such that people who are diabetics should perhaps not take these agents, depending on the degree of diabetes. There is thought to be somewhat higher incidence of urinary and vaginal tract infections because of the change in the alkalinity and the acidity of the vagina. These are a few of the changes. The psychological changes. there have

been reports that they are sufficient in some individuals to produce Rorschach changes.

Q. I didn't get that, what kind of changes?
A. Rorschach changes, this is a psychological testing mechanism. Then of course the ones that everyone knows about are the embolic formation, which is a very serious complication, so much so that in England they warn against taking them past the age of 35 years. This
376 is where some small clot is released from the vascular system and lodges in the lung or in the lung itself, or in one of the vessels of the lung and can cause considerable amount of problem. In some ladies after taking the pills, for even short periods of time, there is what we refer to as the ovulation suppression syndrome where they will not now produce any ovum. Their mechanism has been somewhat cemented to the state while they were taking the pills. These are just superficial comments.

Q. Do you prescribe an IUD for women who have never delivered a baby? A. I do in rare instances. We found that they are not tolerated well by the patient who has not had a baby. We have some in, but generally speaking we don't strongly recommend it. We are still looking for that ideal intra-uterine device that will be accepted. There are those places around the country that do use them, however, it has not been our experience that they are working as satisfactorily as they do in the patient who has had a baby.

377 Q. That is all the questions I have.
THE COURT: Any cross-examination, gentlemen?
MR. BATTLE: Yes, Your Honor.
THE COURT: Mr. Battle.

CROSS EXAMINATION

BY MR. BATTLE:

Q. Dr. Forrest, at the conclusion of your direct testimony you were responding to certain questions

concerning contraception, and I think I might start with that because it is fresh in both of our minds. A. All right.

Q. Do you have any hesitancy in the normal case in prescribing the pill as a satisfactory method of birth control? A. Yes, I do.

Q. You do? A. I do.

Q. Do you think that your hesitancy is shared twroughout the field of obstetrics? A. No, sir, it is not.

Q. So you would place yourself as a more conservative member of the field with respect to the use of the pill? A. Yes. And if I may explain, it is on the
378 basis of the fact that our practice is oriented around treating the complications, the complications that develop as a result of it, and I think we have taken a more conservative opinion than most.

Q. When you use the pronoun "we" to whom do you refer in addition to yourself? A. That is an editorial we. It is I.

Q. Dr. Forrest? A. That is correct.

Q. Would you agree with me, Doctor, that from a statistical point of view woman of childbearing age who utilize the pill, so called, for the purpose of birth control, reduce the chances of pregnancy to practically zero? A. I would say yes.

Q. And would you also agree with me that from a statistical point of view, and I appreciate your opinions on this, but from a statistical point of view the instances of complications resulting in disability or hospitalization or even medical attention from the use of the pill are less than in normal—are less than in the total number of pregnancies? Did you understand my question?
379 A. Yes, I did. This has been an argument on the side

of those who feel strongly about the use of these agents and I would agree that statistically – this is true.

Q. Yes, sir. Now, going back, Doctor, if you will, to the beginning of your testimony. When you gave a definition of a disease from Dorland's Dictionary, and I want to make sure that I recalled the essential part of that definition, was it not that a disease, and I am not going to read the entire definition, is a definite morbid process having a characteristic train of symptoms? A. Yes.

Q. Now, referring just to that part of the definition, what is your definition of a morbid process? A. Well, from the layman's standpoint I think morbid implies death, impending death. From a medical standpoint morbidity usually implies that the body reflects the effects of the disease in such a manner as to make the patient function poorly. If I can use as an example, morbidity in the post-operative state would be one who is running an elevation in temperature after a surgical procedure. We would say that that is a sign of morbidity.
380 But it could be the patient who is experiencing discomfort from constipation or obstipation that you cannot correct this. This creates a morbid condition in the sense that the patient is not reacting normally.

Q. All right, sir. Do you know whether or not the definition that you have just given in your best terms comports with Dorland's definition of morbidity or morbid process? A. Well, I did a little homework, but I didn't look up morbid, nor did I look up morbidity.

Q. Would you agree Dorland might very well use the definition that you earlier suggested as being a condition that by its very nature forebodes risk from a medical point of view and maybe death? A. Forebodes risk?

Q. Yes, or maybe death? A. Yes.

Q. I think you stated that in your experience the pregnant woman that you see and deliver, or of the pregnant women that you see and deliver, 10 to 15 per cent experience some complication? A. I was afraid this was going to be –

Q. I am not really testing you on that. A. I understand that. What I am trying to imply by that 10
381 to 15 per cent is that the patients that we would see from the time that we diagnose pregnancy, that they may have some complication that would alert me to the fact that if I don't take care of this I am going to get in trouble, but I don't mean to imply that 15 per cent of all the patients I deliver have complications. That is my point.

Q. I see. Well, would it be fair – A. At the time of delivery.

Q. Would it be fair of me to understand, Doctor, that of the 10 to 15 per cent who have some complications there is a far less per cent who have complications falling in the category that you later termed major complications? A. Yes.

Q. Could you give me a percentage figure of those that you have experienced with complications falling within the so-called major category? A. I would say somewhere between one and two per cent.

Q. One to two percent. Now, would you further agree with me that of that group of one or two per cent there are some who would not require hospitalization because of the so-called major complications?
382 A. Yes.

Q. Could you then break down your percentage to a percentage of those with major complications within your experience who require or required hospitalization?
A. Well, as I pointed out in my previous testimony,

when I consider a major complication that arises, most of these patients, and I would say perhaps 90 per cent of these patients would be hospitalized.

Q. So I will knock off 10 per cent of the one to two per cent who fall within the category of major complications, would that be fair? A. That is correct. In most instances they are hospitalized.

Q. Yes, sir. Well, I suppose it would be fair to say that the vast majority of the cases in this one to two per cent? A. That's right.

Q. Now, let's take the remainder of the 10 to 15 per cent, which would be 85 to 90 per cent of your patients, which I gather experience no complications – A. That is correct.

Q. – during pregnancy? A. That is correct.
383 Q. Now, would you agree with me that with respect to that group of women, their state of pregnancy, I am talking about the normal 85 to 90 per cent, that their state of pregnancy could not be characterized as a definite morbid process? A. Yes, because pregnancy itself is a physiological process.

Q. The normal pregnancy? A. We have not mentioned this, but it is a physiological process, yes.

Q. Therefore the group that you envisioned, that is the 85 to 90 per cent, absolutely normal pregnancies, suffer from no disease as defined by you earlier?
A. I would think so, yes, sir.

Q. Now, of that remaining percentage of so-called abnormal, that is the 10 to 15 per cent, are those with complications, you told me that maybe one to two per cent suffer a disability or require hospitalization. Now, would you agree that except for the one or two per cent that you have in mind as requiring hospitalization or as having a disability, would you agree with me that

the remaining 98 to 99 per cent cannot be characterized as suffering from a definite morbid process? A. I would agree that when the patient, if I can use as an
384 example, who is two months pregnant and she calls you and she says that she is having cramps and bleeding, this is a complication. Well, frequently we will see these patients in the office and institute therapy. Hopefully that will stop the bleeding, make the patient comfortable. But we are, from that time on, constantly aware that she can become morbid in the sense that the fact that she is bleeding, she bleeds excessively, it could produce morbidity.

Q. And if that occurred I assume that in all probability you would recommend hospitalization? A. That is correct.

Q. So the case that you cited to me of excessive bleeding continuing into a state or morbidity requiring hospitalization, that individual would fall in your one or two per cent category which you have given me earlier, would she not? A. Yes.

Q. Now, Doctor –

THE COURT: Mr. Battle, before you get off that, let me get these percentages correct. The 10 to 15 per cent, is it a fair characterization of your testimony, Dr. Forrest, that what you are saying is that the 10 to 15
385 per cent of your patients require special watching, is that a fair statement? Is that what you are saying? They present you with a history that alerts you to a special watching, is that fair? I want to get it straight. I am not sure what the percentages are that you are referring to.

THE WITNESS: Well, first of all I don't like percentages and that bothers me.

THE COURT: You are going to have to live with that.

THE WITNESS: I understand.

MR. BATTLE: You started it.

THE WITNESS: I understand. But I think that what I am trying to imply is that the patients that we would see either by past history or because of their inability to become pregnant, or because of the fact that they have had some little – well, for example they develop a low-grade urinary tract infection, that there are approximately 15 per cent of those patients that require specialized treatment that just don't come in and just go through the routine, if that is what –

THE COURT: It changes the word "watching" to "special treatment." Does that cover it?

THE WITNESS: Special attention.

386 THE COURT: Special attention. That is 10 to 15 per cent of your patients require special attention?

THE WITNESS: During the course of the prenatal care. Would that help? I mean would that help to explain?

THE COURT: I want your explanation. If that is what you mean.

THE WITNESS: That is what I mean.

THE COURT: Go ahead, Mr. Battle. Thank You.

BY MR. BATTLE:

Q. Doctor, it might be of some relief, I think, I have only got one other percentage that you gave to ask you about, if I have not overlooked something. I think you said too in passing, that your experience told you that from 50 to 60 per cent of the women that you see in their first pregnancies are employed. Did I correctly understand that? A. That is correct, yes, sir.

Q. Do you have a percentage figure on the percentage of employed women that you see during their second pregnancy? A. Here again it will have to be a guesstimate. I have not broken these down for statistical
387 analysis. I want you all to understand this.

Q. I do. A. This is a guesstimate.

Q. I appreciate that. A. I would say somewhere in the neighborhood of maybe 20 to 25 per cent may be, still be working with their second, third, or fourth pregnancy.

Q. So if we compare the 20 to 25 per cent of employed women when you see them during the second pregnancy with the 50 to 60 that you say are employed at the time of the first pregnancy, would it be consistent with your experience that after the first pregnancy of working women more than half do not go back to work? A. It would follow by what I have said that this is apparently what the case would be, yes.

Q. Well, I know it follows arithmetically. I just want to make sure that the arithmetic result comports with your experience. That is, that the people you see of the working force, more than half of the women do not return to work after the first pregnancy. They elect to stay at home and raise a family, isn't that true?

A. I think perhaps this is probably true.

Q. I was curious about the fact that you gave toward the end of your testimony which, as I recall it,
388 was that in England the recommended procedure was that the pill not be taken by women over 35 years of age. I don't want to ask you about that, but do you recall relating that fact to the practice in England?

A. There was a published report, I will put it this way, there was a published report where they recommended that women after the age of 35 should probably not take the pill because of the increase in incidences of thrombo-embolic disease.

Q. Are you aware also of published reports or data on the prevalency of the use of midwives and lay help

in delivering children in England and in large parts of Europe? A. Yes.

Q. And you would agree with me would you not, that there were – there is a prevalency of using midwives and lay help instead of hospitalization and the instances of complications and death do not exceed the statistics in the United States? A. I am not familiar with the statistics. I am familiar with the fact that midwives are still used.

Q. In England? A. In England and, of course, in this country it has fallen off recently to practically nil. But I am not familiar with the morbidity-mortality statistics.

Q. Well, to the extent that midwives are used, say in England, just for the sake of this discussion, no hospital care is provided, is it? A. I am not that familiar. I know that they do home deliveries. They do home deliveries, but I also believe that the midwives are operating in the hospital units per se. In other words, they are not exclusively delivering in the home.

Q. Now, Doctor, I think you testified, I want to make sure that I have it straight, that from a medical point of view in the normal or uncomplicated pregnancy the woman is able to work right up until the time of labor, physically speaking? A. Yes.

Q. And as you treat your patients you do not give any contrary recommendation, do you, in the normal situation? A. No.

Q. And I think you also testified that following delivery a six-week recuperative period was generally what you recommended, is that correct? A. Yes. And
390 here again, that is community acceptance, meaning by that, other colleagues use this. I think six weeks is what we have considered over these many years to have

the return, completely involute, and that most of the reparative healing process following delivery has taken place.

Q. Well, you have stated what I wanted to ask you about it. I didn't understand exactly how your concept of the community interest would affect this period of convalescence. Is it to say that most doctors recommend six so you go along? A. I think the verbage was very poor there, and that is what I am trying to straighten out. That I am saying from a medical standpoint, generally speaking most obstetricians have their patients return to the office for what they call their six-weeks checkup and at that time if everything has returned to normal then they are given instructions to go on further, return to their marital relations, et cetera, et cetera.

Q. And I gathered from the general thrust of your testimony that if it were not for this deep-seated practice or habit within the profession there would be many, many cases in which normal activities could be resorted to earlier than the end of the six-months–six-
391 weeks period? A. By normal activies I would assume you would imply swimming, horseback riding, golfing, playing tennis?

Q. Typing a letter, serving as a secretary?

A. Serving as a secretary?

Q. Yes, sir. A. I am sure that altogether is restricted just on the basis of this. I think we really think in terms of the fact that the body takes a period of approximately six weeks to return to its pre-pregnant state, as near as possible to the pre-pregnant state. I am sure that I have patients who do all of these things prematurely, I mean before they are seen.

Q. All right. Well, let me ask you this. Accepting the six-week period as being the correct prescription for convalescence in the normal case following delivery, if you assume no complications in the delivery, just assume as, in the layman-like way I have in mind, a normal delivery, is there any medical reason or would there be any medical reason why a woman should not return to work within the six-week period? Now, I emphasize the word "medical reason." A. I think in terms of fatigue, after a patient has been hospitalized even for a
392 simple procedure, even like an appendectomy, there is a period of time before they are completely recuperated. And I think the six weeks is a very justifiable length of time and would, as I pointed out, also except in rare instances, I would suggest that they remain home for a period of six weeks.

Q. Now, you were asked certain questions on direct examination which sought answers comparing the opportunities to malinger as a result of pregnancy with opportunities to malinger as a result of other diseases. Now, if I asked you to assume that a woman had no complications during pregnancy and a normal delivery, and then I asked you to assume that she absented herself from work for a period of 20 weeks, just assume those facts – A. After delivery?

Q. Yes. Would you agree that there was in that example a rather strong suspicion of malingering?

A. I would. Unless she had some other medical complications that would be treated by another specialist. But from the standpoint of her delivery, which was normal, I can see no reason why she would stay out for 20 weeks.

Q. Do you recall, Doctor, I wrote down as you
393 testified six examples of major, so-called major complications. Let me read what I have to make sure that I

have it correct. The six-month pregnancy. Experiencing cramping and excessive bleeding. I think that was your first one. Is there a medical term for that condition? If you don't recall one – A. What I am trying to give you, one that I think would cover it. There is some disruption of the placental-uterine attachment that would cause this in most instances. There are other times – there are other causes that may present themselves this late such as a polyp of the cervix or cancer of the cervix that was missed. But these would be the rare exception. Generally when we see a woman at six months pregnant with bleeding there has been some disruption of the placental-uterine attachment.

Q. But when you see that condition you don't describe it by the use of a medical term? A. Partial separation of the placenta.

Q. This is what you write in the record? A. Or maybe a placenta that is located down near or over the opening of the uterus, in which case we would call it a placenta previa.

394 Q. All right, sir. I think I understand you mean by the first condition or abormality or complication in the major category. I think your second one was hypertension. Do you recall that? A. That is correct.

Q. And your third was hemorrhaging, do you recall that? A. Yes, hemorrhaging.

Q. Your fourth example – A. Well, the hemorrhaging, of course, would still go back to number one, because hemorrhaging could – I mean hemorrhaging implies that there is excessive or there is excessive blood loss through the vaginal tract.

Q. All right, sir. Because you said excessive bleeding, which is the same thing as hemorrhaging? A. That is correct.

Q. You list them separately is the reason I recalled them separately. The fourth, as I wrote it down, was acute urinary tract infection. That would fall, if severe enough, into the major complication category?

A. These patients sometimes require hospitalization.

395 Q. Premature rupture of membrane? A. That is correct.

Q. And then the last was premature dilatation of the cervix, correct? A. This is sometimes referred to as the incompetent cervix.

Q. All right. But that is the group that I listed as your examples of major complications? A. Well, under the hypertension, of course, if another medical doctor were sitting here he would probably refer to the toxemias of pregnancy in that same category. I should help you there, or at least give you that toxemia pregnancy.

Q. Presence of edema? A. Edema and go on to convulsions and so forth. This is a major complication.

Q. All right, sir. Well, these are six examples that you gave under the categories, as I understand it, of major complications. Now, did you mean these examples do apply to major complications which result from pregnancy, or the presence of the fetus or – A. They

396 are complications of the pregnancy. The pregnant state having been established and the resultant changes that come about.

Q. Well, now, am I correct in understanding that a given patient may have any one of these five or six conditions and not require hospitalization? You don't suggest that all of these conditions always or invariably require hospitalization, do you? A. It is one of a degree. If, for example, if I can reverse or revert back to the hypertension, here is a woman who presents

herself at, say, six months of pregnancy and has been normal tensive, that is her pressure had been in the range of 100 to 120 over 80, and then suddenly we check her and she is 150 over 80, or something like that, but she has no urinary changes, that is no edema, she has no proteinuria or albuminuria whichever way you want to put it, we may say we better watch this. But if she continues, you will say you want to see her back in two or three days, start some medication. If it progresses or doesn't seem to be responding, then this patient should be hospitalized and studied further. Now, if you are referring to that then I would say, yes, in certain instances it may not.

Q. Well, this is what I am referring to. And I just
397 wanted to ask you one other question about the group. I think that when you testified on direct examination with respect to the cramping and hemorrhaging at the sixth-month period you said it might take several days of hospitalization, is that correct? A. Yes. Well, I was using a specific instance there. This hemorrhaging can occur at any time during the pregnancy. But I use that as an example and I don't wish to just say that six-months bleeding was the complication. I mean that that is a category of major complication, but rather hemorrhaging per se.

Q. Well, I just want to ask you a couple of questions about the condition that you had in mind when you made the statement. A. If we have a woman who say is six to seven months pregnant and she is hemorrhaging or having excessive vaginal bleeding why, yes, we would hospitalize her and try to determine is this a placenta previa or a partial separation and go about managing her and observing her during the course of that time. She may go on and progress to

complete separation with delivery of a stillborn in the
398 period of 24, or 36 hours. It is very difficult to say. Three days. Generally she will stay there until she improved

Q. I was simply asking you about what I believe was your statement that the example that you had in mind would typically take several days in the hospital. And what I wanted to asky you is that when that extreme condition occurs, if it does occur, you would add those several days to the six-week period if you were to give me the total length of time that this particular patient might be disabled with this complication? A. No, I don't think we would add it because in actuality, for example, if the pregnancy is such that we are able to stop the bleeding and we send her home on close observation and bedrest and close examinations at the office, her pregnancy very well may go right to term and she would go ahead and have a normal baby and her six-weeks recovery would be the same.

THE COURT: But you do add it, though. She is out of work during the six weeks plus the several days that you are controlling this condition, isn't that so?

MR. BATTLE: I think that is obvious.

THE WITNESS: Well, on one hand I am talking about
399 positive part of management and the other we are talking about –

THE COURT: Mr. Battle is adding them together and it does follow if you took three days to get the condition under control –

THE WITNESS: She would lose three days of work. She may lose.

THE COURT: Plus the six weeks?

THE WITNESS: Yes.

THE COURT: I understand.

BY MR. BATTLE:

Q. Yes, Sir. A. Yes, any of these complications, any number of days that the patient is in the hospital and restricted would have to be added to the six-weeks period.

Q. Yes, Sir. A. As far as the recovery period after delivery.

Q. And the patient that you have in mind when you are talking about this period of hospitalization for several days would fall within the one or two per cent category that we talked about earlier? A. That is correct.

Q. Doctor, I think you also stated that sometimes women didn't take your advice about pre-natal or post-
400 natal care because of economic pressures. Do you recall that? A. They didn't take some of my advice?

Q. Yes. Well, that is what I thought you must have meant. Now, if you advised a woman to do something that you thought was imperative, you would see to it that she did it, wouldn't you? A. To the extent of even notifying her husband or some member of her family that I could get in touch with to make sure that everyone understood what grounds we were playing with.

Q. So you wouldn't, as the attending physician, permit economic pressures to override what you –

A. Good medical judgment, no.

Q. –what you determine to be essential medical attention? A. No, sir.

Q. And I suppose this would be true of the specialty of obstetrics in general, would it not? A. I would think so. Sometimes we hate to have to put a patient in the hospital for a complication because these patients probably only have six or eight days that their

insurance companies allows them in the first place, and
401 first thing I know I have used up three or four days of their pregnancy insurance and this bothers you, but you cannot practice medicine that way. You have to do it despite the fact that it is going to be costly, and they are going to lose advantages.

Q. Yes, sir. Now, one or two questions about the process of an episiotomy. Am I pronouncing that nearly right? A. That is correct. I can't spell it yet.

Q. We only have one person in the room that needs to spell it. Now, as I understand the procedure, it merely does with a scalpel or knife what nature otherwise would do in a much more primitive way, does it not? It is an incision of the muscle and if it weren't for the incision the muscle would tear? A. Yes. The degree may vary. And the site may vary. Nature given the opportunity very well may tear out laterally where we try to place the episiotomy in the midline and release this tension. It is really a release of tension.

Q. Well, having performed the episiotomy, that by itself does not extend the mother's stay in the hospital,
402 does it? A. Not as long as – well, here again I have got to make an exception. There are degrees of episiotomy.

Q. Let's look at the normal situation. A. Normal episiotomy, not necessarily. No, not necessarily.

Q. And therefore would not extend the mother's period of disability or layoff from work in the usual case? A. No.

Q. Going back to this six-week period which I take it is generally accepted as the period of convalescence or remaining at home from work, from a medical point of view is any part of that six weeks recommended for the benefit of the child rather than, or the baby, rather

than the benefit of the mother? A. I am sure we include this in our over-all concept as far as the convalescence is concerned.

Q. The reason I was prompted to ask the question was because I think you said that in the case of a stillborn three weeks might be more realistic, and it prompted me to ask the question if the additional three weeks was mainly for the benefit of the living child or living baby. A. Now, you have to understand that if you had a term birth, that is a baby that
403 weighed seven and a half pounds, that was stillborn, I think the repair process, the healing process and everything else, is going to be exactly the same as in the normal delivery. On the other hand, if a woman comes in and she has a six-months delivery, premature, she may not have an episiotomy. The size of the uterus is much smaller and it may very well involute more rapidly. I was trying to imply that as far as the physiological response is concerned, it is probably still six weeks regardless of when the delivery took place. Certainly from the mid-trimester through the last trimester. But in many instances these girls feel well enough and are desirous of getting out of the house. They want to get back to work. And I have never based it on economc pressure. I think it has been more or less on the fact that they personally just want to return to work and get out of the house.

Q. Yes, sir. I am wondering if I heard correctly on another statement that you made according to my notes which was the medical management of a pregnancy is the same as any other disease. You don't, do you, mean to say that, or did I misunderstand you?

404 A. A medical management of a pregnancy is the same as any other disease?

Q. Yes. I think the question put to you was there any difference between the management of a pregnancy and the management of any other disease, and I think your answer was no. A. It is almost like comparing apples and doughnuts. If a woman or man comes in with a fracture of his arm there are certain practices that are carried out to make sure that this arm is set and he is followed up until the time that the cast was removed and given certain exercises and things that he can do until he is back to complete recovery. I think in terms of medical management is how we go about handling this patient. During her prepartum state, during her interpartum state, and postpartum state. And as far as management, I am talking about medical attention to the fact that given the problem of managing a patient who is pregnant I think that you – it is good medical management and I think it is the same.

Q. Well, if you are comparing a person, a woman experiencing a normal uncomplicated pregnancy with, say a man who has suffered a severe heart attack, the only
405 similarity is that both of them are seeing a doctor, isn't that right? A. That is correct.

Q. And isn't it true that except for looking out or being alert to the complications in pregnancy the normal pregnancy requires little or no medical treatment?
A. Up to what stage?

Q. Up to the stage of labor? A. Yes. I think that this could be.

Q. Your main purpose is to be on the alert for complications? A. Yes. Yes, I would accept that.

Q. Now, Doctor, I am almost to the end. You were describing complications in pregnancy and I think you have mentioned diabetes, disease of the colon, heart disease and kidney ailment. And I gather that you were

using these examples to show what might happen to pre-existing conditions because of the advent of pregnancy, were you not? A. That is correct.

Q. Would you not agree that in every example, such as diabetes, heart disease, kidney disease, colon disease, which can lead to disability because of preg-
406 nancy, follow me? A. Can lead to disability.

Q. In all cases of diabetes, heart disease, colon disease or kidney disease which could cause a pregnancy—can be brought or exaggerated to the extent of disability, those conditions, excuse me, I haven't finished the question, such conditions are diagnosable prior to pregnancy? A. Or they are diagnosed during the course of pregnancy.

Q. Let's take, for example, a pre-existing condition of heart disease. A. All right.

Q. Which is complicated or brought out because of pregnancy. I think this is an example that you had in mind. A. Which is complicated or brought out as an example?

Q. Yes. A. When you use the broad term "heart disease" there are certain types of heart disease, for example certain people who have pre-existing rheumatic fever with a history of cardiac damage, the degree of the damage, the course of the pregnancy, as a practicing physician you are alerted to the fact that you have this additional problem that could come up, not necessarily that it will come up.

407 Q. I understand. A. And many of these patients with good medical care will go sailing right through just as well as their sister who has not had this, but the fact that she has this puts an additional hazard on the management of her pregnancy.

Q. I think I understand what you are saying. I am trying to take it from the other end, which is to say you can't think of an example, can you, of a heart disease pre-existing which was so severe that it led to disability? A. Oh, yes.

Q. During pregnancy? A. Yes.

Q. Which was not diagnosable in its pre-existing condition. Am I making myself clear? A. Yes. And I can think of a case that occurred during my residency program of a young lady who came in in heart failure at about six months of pregnancy. The maximum peak usually is reached around the seventh month. And her physician or physicians who had seen her in the past did not recognize that she had heart damage. Now, she had to be managed as a cardiac patient first.

Q. But in the normal situation, the normal physician would have recognized this condition prior to pregnancy
408 is my question? A. It depends on the degree of the lesion. The lesion may become apparent as a result of the stress of pregnancy because of the increased blood volume and the stress reaches, as I say, reaches its maximum peak at approximately the seventh month.

Q. All right. We will take the example that you gave me that occurred during your residency. How long ago was that? A. 20 years.

Q. So I may assume it would be rather rare?

A. Well, you may assume that it would be very rare?

Q. Rather rare? A. We just had a case on our service that I did not manage that occurred within the last six to eight months.

Q. I realize that these conditions occur during pregnancy with respect to heart condition, diabetes, kidney disease, but what I am interested in is this question. Aren't those conditions, if they are going to disable

the patient or going to be that severe during her pregnancy, usually diagnosable prior to pregnancy? A. In most instances, but there is still this exception.

409 Q. Yes.

Well, when you diagnose them you have some warning that this can occur and you are then able to apply the right sort of prescriptions and medical treatment to manage it? A. Special assistance, yes.

Q. I am curious about the answers that you gave to questions comparing voluntary act of becoming pregnant with the voluntary act of consuming alcohol to the point of becoming an alcoholic or smoking cigarettes to the point of having lung cancer.

We can dispose of this in a minute. You don't compare pregnancy in any sense with either alcoholism or lung cancer, do you? A. No, I don't compare the two. I think one is a very, hopefully, joyous outcome and the other has nothing but dire circumstances.

THE COURT: You mean smoking will not necessarily lead to pregnancy?

THE WITNESS: That is correct.

Nor drinking.

Drinking may.

BY MR. BATTLE:

Q. So to sum it all up, Doctor, as you said earlier

410 pregnancy is a normal physiological process, is it not, and certainly can't be cmpared with alcoholism, lung cancer, or any other disease? A. Only in that they both require medical attention.

Q. They see doctors? A. They see doctors and they get treatment.

Q. Yes, sir.

I think that is all.

THE COURT: Any redirect?